THE DVTIES OF CONSTABLES, BORSHOLDERS, TYTHINGMEN, and such other lowe and Lay Miniſters of the Peace.

Whereunto be adioyned the ſeue-rall offices of Church-Miniſters, and Church-wardens, and Ouerſeers for the Poore, Surueyors of the highwaies, and Diſtributors of the prouiſion againſt noyſome fowle and vermine.

First collected by WIL. LAMBARD of Lincolnes Inne, GENT.

nd now carefully corrected, and profitably augmented to this preſent yeere 1631.

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BRITISH MUSEUM

The duties of Constables, Borsholders, Tythingmen, and such other low Ministers of the Peace.

VNderstanding by sundry friends of mine, that many well disposed men doe earnestly wish, that some one short and plaine collection might be made of the duties of High Constables, petite Constables, Borsholders, Tythingmen, Headborowes, and such like inferiour Ministers of the Kings Majesties Peace; to the end that when any of them should be called to any of the said offices (or the like) they might the better behave themselves in doing the same: I have thought it a thing worthy the labour, to send abroad amongst them this little Treatise, wherby I have indevoured to satisfie in some part their honest desire; heartily praying unto God, that as their knowledge may be increased in the reading hereof, so also their diligence may

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be amended in the practice of the same, to the setting forth of the glory of God, and to the aduancement of the Kings Maiesties seruice in this behalfe.

The diuision of this worke.

2 And because I purpose (by the help of God) to make this worke so short, and so plaine withall, as the matter thereof it selfe will suffer me, and as the vnderstanding of vnlearned men doth require: I will first speake somewhat, both of the sundry names and beginnings of these officers, and then afterward I will goe in hand with the parts of their seuerall duties.

The names of the Officers.

3 The sundry names of Constables, or High Constables, that be of Laths, Rapes, Wapentakes, Hundreds, & Franchises, and the diuers names also of Constables, pety Constables, Tythingmen, Borsholders, Borowheads, Headborows, Chiefe pledges, and such other (if there be any) that beare office in townes, parishes, hamlets, tithings, or borowes (for the Constables of Castles, otherwise called Castellans, and such others, I meane not to entreate) are all (in effect) but two, that is to say, Constables and Borsholders: for these two words doe containe as much as all the rest of those names, and to those two all the rest of them may be reduced: and therefore in speaking seuerally of those two, I will passe along and touch all the rest also.

4 The name Constable, is made (as I haue read) of two English words put together, namely, cunning (or crying) and staple, which doe signifie, the stay (or hold) of the King. For by the ancient custome of the Realme, there is a great officer called the Constable of England, who by meanes of the high authoritie that he had, was a principall stay vnto the Kings gouernment, and this man had iurisdiction and authoritie in deeds of Armes, and matters of warre, both within & without the Realme. Out of which office, this lower constableship was at the first drawne and fetched, and is (as it were) a very finger of that hand. For the statute of Winchest. which was made in the time of King Edw. the first, and by which these lower Constables of Hundreds & Franchises were first ordained, doth (among other things) appoint, that for the better keeping of the Peace, two Constables in euery Hundred & Franchise, should make the view of Armour. So then, the name of Constable in a Hundred or Franchise, doth meane that he is an officer that supporteth the Kings Maiestie in the maintenance of his peace, within the precinct of his Hundred or Franchise, and he is many times called the High Constable, in comparison of the constables, or petty constables, that be in the townes or parishes within his Hundred or Franchise; whose part

Constables name

31. R. 2. ca. 12.

His beginning.

13. E. 1.

it likewise is, to maintaine the peace within the seuerall limits of their owne townes or parishes.

Borsholders name

5 As touching Borsholder (which is the other generall name, & doth contain within it the meaning of Tythingmen, Borrowheads, Headborowes, Thirdborowes, and Chiefe Pledges) that also is made vp of these two English words, Borhes and Ealder, of the which, Borhes betokeneth Pledges, and Ealder signifieth the Chiefe, the Head, or the Ealder: and Borshealder in one word doth mean the chiefe (or head) of the sureties, or pledges.

His two offices.

6 But now, that you may the better vnderstand what is meant by this, you must further know, that euery of these Borsholders, Tythingmen, Borowheads, Headborowes, Thirdborowes, and Chiefe Pledges, hath two seuerall offices at this day: the one being his ancient and first office, and the other his later made office.

His first office.

7 His first office began thus: By the ancient lawes of this Realme (before the comming of King William the Conqueror) it was ordained for the more sure keeping of the Peace, and for the better repressing of theeues and robbers, that all free born men should cast themselues into seuerall companies, by ten in each company: and that euery of those ten men of the company, should be surety Archia nomia.

and

and pledge for the forthcomming of his fellowes: so that if any harme were done by any of these ten against the Peace, then the rest of the ten should be amerced, if he of their company that did the harme should flie, and were not forthcomming to answer to that wherewith he should be charged.

And for this cause, these companies be yet in some places of England (and namely with vs in Kent) called Borowes, of the said word Borhes, Pledges, or Sureties, albeit in the vtterme parts of this realme they be commonly named Tythings, because they containe (as I told you) the number of ten men with their families. And euen as ten times ten doe make an hundred; so, because it was then also appointed that ten of these companies should at certain times meet together for their matters of greater weight, therefore that generall assembly (or Court) was (and yet is) called a Hundred.

Furthermore, it was then also ordained, that if any man were of so euill credit that he could not get himselfe to be receiued into one of those Tythings or Borowes, then he should be shut vp in prison, as a man vnworthy to liue at libertie, among men abroad.

Tythingman. Headborow, &c.

§ Now whereas euery of these Tythings (or Borowes) did vse to make choice of one man among themselues, to speak,

and to do in the name of them all: he was therefore in some places called the Tythingman, in other places the Borowes Elder (whom we now call Borsholder) in other places the Borohead or Headborow, & in some other places the Chiefe Pledge, which last name doth plainly expound the other three that are next before it: for Head or Elder of the Borowes, and Chiefe of the pledges, be all one: And in some shires, where every Thirdborow hath a Constable, there the Officers of the other two be called Thirdborowes.

Old orders in tythings.

9 Moreouer, in these Tythings (or Borowes) sundry good orders were obserued: amongst others, first, that euery man of the age of xii. yeeres should be sworne to the King: then that no man should be suffered to dwell in any towne or place vnlesse he were also receiued into some such suretiship and pledge as is aforesaid. Thirdly, that if any of these pledges were imprisoned for his offence, then he ought not to be deliuered without the assent of the rest of his pledges. Againe, that no man might remoue out of one Tything (or Borow) to dwell in another, without lawfull warrant in that behalfe. Lastly, that euery of these pledges should yeerly be presented and brought forth by their Chiefe pledge at a generall assembly for that purpose, which we yet in remembrance therof do call the View of Frankpledge, or the Leet Court.

Itin. Kanc.

Vid. 4 E. 3. 17 Et Kite. fol. 12.

10 Hitherto

10 Hitherto I haue opened the ancient office of the *Borsholder, Tythingmen*, and the rest, whereof also there is yet to this day some shew or remnant in our *Leetes* (or *Law* dayes) but if the very substance thereof were thoroughly performed (as I know no let, but that by law it may) then should the peace of the land bee much better maintained than now it is.

As touching the latter office that these Borsholders, Tythingmen, Headborowes, Boroheads, Thirdboroes, and Chiefe Pledges haue, it is in manner all one with the office of a Constable of a towne or parish, which is commonly named a petie Constable, or under Constable, because he is a small Constable in respect of the Constable of the Hundred, within whose limit he is. For as about the beginning of the reigne of King E. 3. petie Constables were deuised in towns and parishes for the aide of the Constables of the Hundred: so of latter times also Borsholders, Tythingmen, Headborowes, such like haue bin vsed as petie Constables, within their owne Borowes and Tythings. And yet not so vniuersally, but that some of them haue at this day none other but their old Office. For in some of the Westerne parts of England you shall see, that where there be many Tythingmen in one parish, there only one of them is a Constable for the King, His latter office.

King, and the rest doe serue but as the ancient Tythingmen did. Now therfore hauing spoken of the names and beginnings of these inferiour Officers of the Peace, let vs also come to the parts of their common and seuerall duties.

Diuision of their office.

11 Forasmuch as a great and chiefe part of the duty both of these high Constables of Lathes, Rapes, Wapentakes, Hundreds, and Franchises: and also of these Constables, petie Constables, Tythingmen, Borsholders, Borowheads, Headborowes, Thirdborowes, Chiefepledges, and such like ministers, by whatsoeuer other names they be called in any Townes, Parishes, Tythings, Borowes, Hamlets, or other places of the Realme, doth consist in the maintenance of the Kings Maiesties peace, wherein (as also in some other points) the power of them all is alike, and but one, within their seuerall limits & places of authoritie therefore I thinke it good to shew first, what their common & equall duty is in matters concerning the peace, either by their owne authority, or vnder the authoritie of others: then afterward to declare, what their common and like dutie is in some other things not concerning the peace: lastly, to open those things wherein they haue a distinct and seuerall dutie, one from another of them.

12 The Conuersation (or maintenance) of the peace standeth in three things,

things: that is to say; first, in foreseeing that nothing be done, that tendeth either directly, or by meanes, to the breach of the peace: secondly, in quieting or pacifying those that are occupied in the breach of the peace: and thirdly, in punishing such as have already broken the peace. Their office concerning the Peace.

And here, lest any man should be deceiued in not vnderstanding what is meant by these words, The breach of the peace, he must first of all know, that by the breach of the peace is vnderstood, not onely that fighting which we commonly call the breach of the peace, but also that euery murder, rape, manslaughter, and felony whatsoeuer, and euery affraying (or putting in feare) of the Kings people, whether it be by vnlawfull wearing of Armour, or by assembling of people to doe any vnlawfull act, are taken to be disturbances or breaches of the Peace. What is the breach of the Peace.

13 But now, for the better preuenting that nothing be done against the Peace, any of these Officers aboue said may take (or arrest) suspected persons, which walke in the night, and sleep in the day: or which do haunt any house, where is suspition of bawdry, and they may carry them before a Iustice of the Peace, to find sureties of their good behauiour. And if any such Officer be not of sufficient strength to doe that alone, then may he take meet aide

13. H. 7. 10. Cur. To preuent things against the Peace.

of

of his neighbours thereto, & they, in such cases be compellable to help & assist him.

Any of these Officers may also arrest such strange persons as do walk abroad in the night season, and for that cause the said statute of Winchest. did ordain, that night watch should be kept yeerly, from the feast of the Ascension vntill Michaelmas, by fire men at euery gate of euery Citie, by twelue men in euery Borough towne, and in euery other towne by fire men, or foure men, according to the number of inhabitants in the towne, all the night long, from Sun setting to Sun rising, so that if any stranger did passe, he should be arrested till the morning, & then set at large (if no suspicion were found of him) but if any suspicion fell out against him, then he should be imprisoned, till he might be lawfully deliuered. And of these watches the officers before named haue the charge within the limits (or places) of their authorities as the Constable in his towne, the Borsholder in his borow, & the high Constable within all his Hundred: and these Officers ought to see these Watches duly set and kept, and ought also to cause Huy & Cry to be raised after such as will not obey the arrest of such watchmen. Fit. In Iust. del. P. 171. 5. Ed. 3. 14. 13. Ed.

Againe, if any person whatsoeuer (except the Kings seruants and minister in his presence, or in executing his precepts, or other offices, or such as shall Sta. N. 2. E. 3. ca. 3.

assist

assist them: and except it be upon Hue and Cry made to keep the peace, and that in places where acts against the peace doe happen) shall be so bold, as to goe, or ride armed by night or by day, in Faires, Markets, or any other places: then any Constable, or any other of the said Officers may take such Armour from him for the Kings vse, and may also commit him to the Goale. And therefore it shall be good in this behalfe for these Officers, to stay and arrest all such persons as they shall finde to carrie Dagges or Pistols, or to bee apparelled with priuie coats, or doublets: as by the Proclamation (made in the xxi. yeere of the reigne of the late Queene Eliz.) they are specially commanded. 21. El. Reg.

Further more, if any great assembly or rumour of people be made in maner of insurrection, then the Sheriffs, Constables, & these said other Ministers, hauing knowledge thereof, ought to goe with the strength of the Countie, and to set themselues against it, and ought also to take and imprison such offendors. 27. R. 2. 8

Lastly, if any man do threaten to kill another, and he which is so threatned doe pray any of these Officers to arrest the other to find sureties of the Peace: then may such an Officer arrest him to finde such surette before a Iust. of the Peace, and may also carry him to prison, if he refuse to find it: But if he yeeld to goe, it Barre 201. en Fitz. 22. Ed. 4. 31. Bria.

shall

shall be good to take the party threatned, to the Iustice with him.

To pacifie and punish the breach of the Peace.

14 Thus much I haue spoken of those things which do bend towards the breach of the peace: but now I will come nearer to the breach it selfe, and withall to the pacifying and punishing of the same.

If therefore a Constable, or any other of the said officers shall see any men going about to breake the peace, as by using hot words, by which an Affray is like to grow: then ought such Officers to command those persons to auoid upon paine of imprisonment: and if they will not depart, but shall draw weapon, or giue any blow, then ought he to doe his best to depart them, and to keep them asunder: and he may (for the purpose) both vse his owne weapon, and may also call others to assist him. In which doing, if any such Officer, or other person comming on his part doe take hurt, he shall haue good remedy by action against him that did the hurt: but if any of them that made the Affray be hurt by such officer, or by any of his company, then such a hurt person hath no remedie at all for it. 1. H. 7. 10. 21. H. 21.

And if he that maketh an Affray doe flie into a house when such an officer commeth to arrest him: then may that officer breake open the doores to take him: and if he that made the Affray, doe flie from thence also, yet may the officer follow him, and in fresh suit take him, 13. Ed. 9.

though

though it be in another Shire or Countie.

So, if two men be fighting together in a house (the doores being shut) yet may such an officer breake open the doores to cause the peace to be kept, though none of the parties have taken hurt. And in both these cases such an officer may carrie them before a Justice of the Peace to finde suretie for the peace, because they have broken the peace already, and are mét to be bound that they shall not breake it againe.

But if any of the parties to an Affray have received any dangerous hurt, then ought such officer to arrest him that did the hurt, and to carry him to the Goale, there to remaine till he find suretie to appeare at the next Goale Delivery: otherwise, he may with lesse labour carrie him to a Justice of the Peace, or to a Coroner, who ought to take order for such suretie, because the fact may fall out to be Felony, if so be that he which was hurt doe happen to die within one yéere and a day next following such hurt unto him.

And as these Officers ought to arrest those that doe make assault upon any private person, so also may they arrest any such as shall make assault (or Affray) upon themselves whilest they be in doing their offices: and may for that purpose lawfully defend themselves, and also

also take the offendors, and commit them to the Goale, or carry them to a Justice of the Peace, for the finding of such suretie as is aforesaid.

But if one do assault a man in or nigh the highway to robbe him, and be taken by the true man, or by any other, and be brought to the Constable, or such other Officer of the place: then ought such Officer, not only to take him to his ward, but also to carrie him before a Iustice of peace to cause him to give suretie for his Good abearing. Barre 101. in Fitzh.

So, if any man doe suspect another of Murder or Felony, and doe declare the same to any such Officer of the Peace, then such Officer may arrest the suspected person, and he shall doe well to carrie him to a Justice of the Peace together with him that doth suspect him, to the end that they both may be examined as appertaineth. Yea, any of these said Officers may search within the limit of his authoritie for any persons suspected of Felony: for it is a chiefe part of their office to represse Felons. 5.E.ca 17.E.4. 2.Ed.4.

And therefore any of these Officers may (of his owne authoritie) arrest one that is endited of Felony: So if the common voice and fame be, that A.B. hath done a felonie, that is sufficient cause for any of these Officers (that shall thereof suspect him) to arrest him for it. 5.H.7. 5.

And if any man shall flie upon felonie,

is the office of the Constable of the towne; or of any of these other officers there, to seise his goods, and to keep them safely: for he is to answer for the losse or impairing of them, and therefore it is meet that he doe it by Inuentory taken in the presence and by the testimonie of the honest neighbours.

1.Ed.3. tit. Northumb.

And I like well of their opinion, which doe hold, that if information be given to any such officer, that a man & a woman be in adulterie or fornication together, then the officer may take company with him, and that if he finde them so, he may carrie them to prison.

2.H.7.7.

But this is to be marked, that in the cases before, and such like, where such an officer hath arrested, or hath in his ward any offendour that ought to be carried to the Goale, there such an officer is not bound forthwith to carrie him, but may well for a reasonable time keepe him in the Stockes, vntill that conuenient prouision of strength may be made to conuey him safe thither. And when he shall bring such offendour to the Goale, then ought the Goaler to receiue the same freely, without taking any thing of the Officer for it.

3.H.4.9. 22.E.3. 11. 4.E.3. 22.10.

15 Hitherto (as you see) I haue spoken of the Constable, and of these other officers so farre only as they haue authority by their owne offices, without any commandement from others. But forasmuch

Hauing of precepts

much as a great part of their duty concerning the Peace, resteth in the making of due execution of the precepts of higher officers, and especially of the Iust. of the Peace, who be (as it were) immediately set ouer them, let vs also see after what manner these Constables, and other the said inferiour ministers of the peace, ought to behaue themselues in that behalfe.

Precepts. Albeit then, that the said Officers bee subiect to the commandements of the Iustices of Goale deliuery, and of Oyer and Terminer, and of some higher Iustices, yea, & to the precepts of Coroners also, and of other Officers in some certaine cases, yet because most commonly they are called vpon by the Iustices of peace, they ought specially to shew themselues obedient to their Precepts, who (as it may appeare by some old Presidents) haue authoritie to remoue insufficient Constables and Borsholders, and to substitute able persons in their place. Neither ought these Officers to dispute whether their commandements bee grounded vpon sufficient authoritie or no: as knowing that although a Iustice of the Peace (which is a Iudge of Record) should direct a Warrant beyond his authoritie to a Constable, or one other of the said Officers, yet shall such Officer be holden excused for executing the same, howsoeuer that Iustice of

14. H. 1. cap. 18. 21. H. 7. 22.

Peace

Peace himselfe be blamed for it.

If therefore a Warrant of the peace or good abearing happen to bee directed to any of these said Officers, then ought he with all speed and secrecie to finde out the party: and then also may he lay his hands upon him, and shew him the matter, & to require him in the Kings name to goe with him, to put in suretie according to the warrant. And this if the par-
21. H. 7. 39. tie shall refuse to doe, then ought such Officer forthwith to arrest him, and to convey him to prison, without carrying him to any Justice: in which doing, if the party shall offer any resistance, or shall seeke to escape, then also may such Officer inflicte the beating or hurting of him.

21. H. 7. 1. 20. But if the party shall yeeld to goe and giue Surety, and yet will not goe to such Justice as made out the Warrant, but to some other Justice, then ought such Officer to giue him that liberty, so that it be not far out of the Limit: for else so great trauaile might follow vpon the Officer, as rather he, than the offendour, might seeme to be punished by it.

And here the Officer must take regard and consider, whether the Warrant doe come directly from the meere authoritie of the Justices of Peace, or else bee grounded vpon a writ of Supplicauit sent downe from higher authoritie (which difference ought to appeare plainly in all

warrants that be well & orderly made.) And if the Warrant be grounded vpon such a writ, then may such Officer compell the partie to goe to the very same Iustice or Iustices of Peace that made out the Warrant, and otherwise he may carry him to prison, as is said before.

Neither is it requisite, that such an Officer should dance after the party (as many vse to doe) vntill he can finde out sureties: but he may lawfully keep him, vntill that he can get sureties to come vnto him: the ignorance of which point is the cause, both that many an euill man escapeth, and many an honest Officer is punished for it.

But here it happeneth many times, that the party (hearing that such a Warrant is granted against him) offereth himselfe with sureties for that cause vnto some other Iustice of Peace, or findeth such suretie in some of the Courts at Westminster, and so hath a Supersedeas ready to shew such Officer as commeth to him with a Warrant as is aforesaid. Now, if that be so, then is the Officer discharged thereby, and ought not any further to molest the partie; but yet it shall bee good, that such Officer doe keepe the Supersedeas for his better discharge, and shew it to the Iustice from whom he receiued the commandement of seruice, lest otherwise he be called to account for not serving the Warrant

that

that was ſent vnto him.

21. Iac. 8. And here likewiſe it is to bee noted, that now by a ſtatute (made in the one and twentieth yeere of the reigne of our late Soueraigne Lord King Iames) all ſuch writs of Superſedeas are voide, and of none effect, vnleſſe the Proceſſe of the peace, or good behauiour (vpon which ſuch Superſedeas is grounded) be granted vpon motion in open Court, firſt made, and vpon ſuch ſufficient ſureties, as ſhall appeare to the Iudge or Iudges of the ſame Court vpon oath to be aſſeſſed at fiue pounds lands, or ten pounds goods in the Subſidy booke at the leaſt, which oathes, and the names of ſuch ſureties, with the places of their abode, and where they ſtand aſſeſſed in the Subſidy bookes, ſhall be entred and remaine of record in the ſame Court: And vnleſſe it ſhall alſo appeare vnto the ſame Iudge or Iudges, from whom ſuch Superſedeas is deſired, That the proceſſe of the Peace or good behauiour is proſecuted againſt him or them (deſiring ſuch Superſedeas) Bona fide, by ſome partie grieued in that Court, out of which ſuch Superſedeas is deſired, to be ſo awarded and directed.

2 R. lib. Aſſ. 55. Coron. 261. 288. 328. in Fitzh. If a Warrant be directed to a Conſtable or ſuch other Officer, to arreſt one that is indited of Felony, then may ſuch Officer iuſtifie the killing of ſuch a partie, if it be ſo, that he cannot otherwiſe

take him: or if so be that he resist or flie when he is taken.

Finally, the Constable, or such other of the said Officers, having arrested any to be conveyed to the Goale, must take good heed, that he doe not willingly or negligently suffer such partie to escape from him. For if the arrest were for Felonie, then by a willing escape, the officer himselfe becommeth a Felon also. And of whatsoeuer other kinde the offence be, if the officer doe by his will or negligence suffer the partie to escape from him, he shall be fined for it, according to the quantity of his fault, by the discretion of those that shall be Judges of it. And lest any such Officer should flatter himselfe, in thinking that he may passe through with some easie Fine: I let him know, that the Judges of his fault may set his Fine equall with the value of all his goods, if in their discretions his default doe so require. 11.H.4 24. Stam.

16 Thus haue I performed the first part of my promise, and haue shewed what is the equall and like duty of euery of the said Officers in matters concerning the Peace, both by their owne authority, and also in doing the commandements of the Iustices of peace. Now therefore I must goe forward to the second part of my purpose, and am to declare their like duty in other points of seruice that doe not concerne the peace, for

The equall duty of these Officers in matters besides the Peace.

for equall power is indifferently giuen to any of thoſe officers by ſome Statutes of the Realme, whereof thoſe that follow be the chiefe and principall.

Attendants for the execution of Statutes.

33. H.8. ca.10. & 37.H.8. cap.7.

17 All Conſtables, and other the ſaid Officers, ought to be attendant, ayding, and aſſiſting to the Juſtices of peace, for the execution of all and euery the Acts (made in, or before the Parliament, holden in the 33. yeere of the reigne of King Henry the eighth) concerning Retainors, giuing of Liueries, maintenance, embracery, bowſtaues, archery, vnlawfull games, foreſtallers, regrators, vitaile, Victailers and Inholders, or any of them vpon paine that the ſaid Conſtables and other the ſaid Officers ſhall make ſuch fines, as by two of the ſaid Juſtices of Peace ſhall be aſſeſſed.

But note that now all ſtatutes that concerne giuing of Liueries are repealed, 3. C.4.

Phyſicians.

14. H.8. cap. 4.5. 32.H.8. cap.2. 1.Ma.par. 2.cap.9.

18 All Conſtables, and other the ſaid officers within London, or within ſeuen miles thereof, ought (vpon requeſt made) to aide & aſſiſt the Preſident of the Colledge of the Phyſicians of London, and other perſons authoriſed for the due execution of the Statutes made concerning Phyſicians, Apothecaries, and Surgeons.

Purueyors.

23. H.8. cap.14.

19 If any perſon ſhall (without lawfull bargaine) purueiw or take any thing of any of the Kings Liege people to the vſe of any (other than the King and his houſe) and thereof notice be giuen to the Conſtable, or ſuch other Officer of the

place, then such Officer ought (vnder the paine of xx. pounds) to arrest such taker, and to carry him to the next prison.

No Purueyour of the King ought to take any horse, or cart, but by the deliuerie of the Maior, Bailiffe, Constable, or such other Officer of the place whence that taking shall be. 28.H.6. sta.2.c.1.

Corne ought to be taken for the kings house by striked measure of eight bushels to the quarter, according as is vsed throughout the land: and the takers of all things to bee taken for the kings house, shall make their purueyance by the very value thereof, by the view of the Constable or other such Officers, and by appraisement vnder oath of foure other good men of the towne, where the taking shall be: and such takings shall be made without driuing the praisors by compulsion, menacing, or other villany, to set any other price than their oath will, & as cõmonly runneth in ỹ next markets. 25.E.1. cap.1. 36.E.3. sta.2.c.3.

Takers, vndertakers, their deputies or seruants, shall not take any Beeues, Weathers, Lambs, Calues, or any kind of salt fish, or any kind of graine, or any Butter in any vessels, or Cheese, Bacon Conies, Pigs, Geese, Capons, or Hens, but by Commission, and a Blanke therto for that thee annexed: in which Blanke the said seuerall things to be taken, and the prices of them shall be written, and to which Blanke the high Constable, petie 2.& 3.E.6. & M.c.

Con-

Conſtable, or Headborough of the place where any ſuch taking ſhall be, ought to ſubſcribe his name or ſigne manuel. And ſuch taker ought then alſo to make a briefe or docket in writing ſubſcribed with his name, containing euery of the ſaid things ſo taken in euery place: and ought then alſo (vnder ẏ pain of an hundred markes) to deliuer the ſame to the ſaid high Conſtable, petie Conſtable, or Headborow, who alſo ought to deliuer it ouer to the Juſtices of the peace at their next generall Seſſions within ẏ county.

20. E. 3. cap. 1. 20 In the takings for the Kings houſe, Tailes (or Indentures) ought to bee made and ſealed betweene the taker and the owner (in the preſence of the Conſtable, or ſuch other officer, and the praiſors of the place) by which Tailes (or Indentures) ſatisfaction ought to be made to the owner for his things ſo taken.

20. H. 6. cap. 8. 21 If any Taker will make purueyance of any things (not exceeding the value of forty ſhillings) and make not readie payment in hand therefore, it is lawfull for the owner to retaine the thing ſo taken, and to reſiſt ſuch purueyance: and the Conſtable, Tythingman, or Chiefe Pledge of the place (being thereto required by the owner) ought to aide and aſſiſt ſuch owner in making ſuch reſiſtance, vnder pain to yeld vnto him ẏ value of the thing taken, & his double damages.

18. H. 6. cap. 15. 22 All Conſtables and other the Officers Souldiers.

cers aboueſaid, of the Pariſh or place, where any of the Kings ſouldiers beyond the ſeas being muſtered of Record ſhall happen to arriue, may arreſt and ſtay ſuch ſouldiers, till it be inquired, whether they bee lawfully departed from their captaines or no. 21. H. 8. cap. 3. 22. H. 8. cap. 14. 22. H. 8. cap. 3.

Coroners. 23 All Conſtables and other the ſaid Officers, muſt be attendant vpon Coroners, for the abiuring and conueying of ſuch perſons as ſhall take the Churchyard as a Sanctuary for ſafeguard of their liues, by occaſion of any Felony by them done. But now all Sanctuaries are extinct by 21. Ia. 28. 3. Iac. cap. 28.

Charges of conueying Offendors to the Goale. 24 By warrant of ſuch Iuſtice of Peace as committed an offendour to the common Goale, the Conſtable of the Hundred, or the Conſtable or Tything man of the Tything or Townſhip, where ſuch offendor dwels, from whence he was committed, or where he hath any goods, may ſell ſuch goods of the ſaid offendour as by the diſcretion of the ſaid Iuſtice will pay the charges of his conueying to the ſaid Goale: the Appraiſement to be made by foure of the honeſt Inhabitants of the Pariſh or Tything where ſuch goods ſhall be, and the ouerplus of the mony made thereof to be deliuered to the party to whom the goods ſhall belong: And if ſuch offendour haue no goods, an indifferent tare therefore ſhall bee made by the Conſtables and Churchwardens, and two or three other

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the honeſt Inhabitants of the Pariſh, Townſhip, or Tything, where ſuch offendour ſhall be taken, and in default of them by foure of the principall Inhabitants of the ſaid Pariſh, Townſhip, or Tything: which taration being allowed vnder the hand of a Iuſtice of Peace, if any ſo tared refuſe to pay the ſame taration, by Warrant of ſuch Iuſtice of Peace, the Conſtable, Tythingman, or other Officer there, may diſtraine and ſell (by ſuch appraiſement as aforeſaid) the goods of ſuch refuſer; and the ouerplus of money come by the ſale thereof to be deliuered to the owner.

7. Iac. cap. 4. 25 The Iuſtices of Peace of euery Rogues & Beggers. county twice in a yeere, and oftner if occaſion be, are to aſſemble and meet together for the better execution of the ſtatute made 7. Iacobi Regis, cap. 4. againſt Rogues and Vagabonds: And foure or fiue dayes before ſuch Aſſembly the ſame Iuſtices, or the more part of them may command the Conſtables and Tythingmen of euery Hundred, Towne, Pariſh, Village and Hamlet, with the aſſiſtance of ſufficient men, to make a generall priuie ſearch within their ſeuerall limits for Rogues, Vagabonds, wandring and idle perſons; and ſuch as they haue found and apprehended in the ſaid ſearch, they are to bring before the ſaid Iuſtices at their ſaid Aſſembly, there to be examined of their idle life, puniſhed, or otherwiſe

wise by warrant of such Justices, sent to the house of Correction within the said County, there to be deliuered to the Master of such house or his deputy to be set to labour and worke. At which dayes of Assembly the said Constables and Tythingmen must appeare in their seuerall diuisions before the said Justices, and giue account in writing, and vnder the hand of the Minister of the Parish, what Rogues, Vagabonds, and wandring persons they haue apprehended both in the same search, and betweene euery such assemblies, and how many haue beene by them punished, or sent to the houses of Correction: which if the said Constables or Tythingmen neglect to performe, or to conuey safely all such rogues and idle persons at the charge of the Hundred, as by the Justices of Peaces warrants are sent vnto the houses of correction; they doe thereby forfeit such Fines as the said Justices shall thinke fit, not exceeding 40.s. for euery offence.

All these things heretofore rehearsed, whether they concerne the preseruation of the Peace, or any other matter besides the Peace, may and ought to be done & executed indifferently (as I thinke) by any of the said officers within the precinct of his authority: that is to say, as well by the high Constable of the whole Hundred or Franchise within his Hundred or Franchise, as by the Constable,

petie

petie Conſtable, Tythingman, Borſholder, Borohead, Headborow, Thirdborow or Chiefe Pledge, within his Towne, Pariſh, Tything, Borow, or Hamlet, and ſo, as none of them hath more power of office therein than the other, although ſome of them haue larger limit of place than the reſt. But now I am come to ſuch things, as doe ſeuerally belong to theſe officers, ſo as the other may not meddle therewith, (which is the third part of my promiſe) and therefore I will take that in hand alſo; and becauſe the *Conſtable* of the Hundred or Franchiſe, is the greateſt of theſe officers, both in reſpect of his larger precinct of place, and alſo of the higher truſt that is committed to him, I will begin at him; who, as hee is not by and by ſet alone, but is for ſome matters no further authoriſed than ſome other of the ſaid officers, ſo I will firſt begin at thoſe, and then come to the reſt that belong onely to himſelfe.

Highconſtable of a Hundred.

14. El. cap 5. 26 The money appointed to be leuied by the Churchwardens of euery Pariſh each Sunday, for the reliefe of priſoners in the Goale, ought (vnder the paine of v.li.) to be payd by them once euery quarter of a yeere to the High Conſtables, or head officers of euery Hundred, Riding, Wapentake, Towne, or Pariſh: and the ſaid high Conſtables, or head Officers ought (vnder the paine of 5. pounds) to pay ouer the ſame money ſo to them payd,

Priſoners.

payd, at the next Quarter Sessions of the Peace, to the person appointed by the Justices of Peace to receiue the same.

It seemeth to me, that in this case next aboue, the words high Constables, high tythingmen, & head officers, do exclude petie constables, borsholders, and such like to meddle therein: because none are called high, or head, but in comparison of Low and Base. Now therefore I will speak of matters concerning the high Constable of the Hundred alone.

High Constable alone.

Petty Sessions.

27 High Constables of Hundreds in all such Shires, where petie Sessions for seruants and labourers (otherwise called statute Sessions) were vsed to be kept before the first day of the Parliament holden in the fifth yeere of the Reigne of our late gracious Q. Elizabeth, may yet still hold their said Sessions, so that nothing be done in them repugnant to the Statute of labourers & seruants made in the same Parliament. 5. Eliz.

Watches and Highwayes.

28 The Constables of hundreds & of Franchises, ought to make presentment to the Justices of Peace, and to all other Justices thereto assigned, of the defaults of Watches, & the defaults of the Kings Highwayes not enlarged, so as no ditches, vnderwood, or bushes be within two hundred foote on euery side of the same: and also of such as lodge strangers in vplandish Towns, for whom they will not answer, 13. E. 1. sta. Winton.

20 Clothmakers ought to pay the wa- Clothiers.
5. Eliz. c. 8 ges of their Carders and other Worke-
folks in lawfull money, and not in pins,
girdles, or ſuch other things: & to deliuer
their wools by faithfull deliuery and due
weight vnto them to be wrought, vpon
paine of forfeiting the treble of their
wages not ſo paid, and 6. pence for euery
deliuery of ſuch exceſſiue weight. And the
ſaid Workfolkes ought to do their occu-
pations duly, vpon paine of double dam-
mages to the party grieued. And euery
Conſtable of the Hundred may heare &
determine the complaints aforeſaid by
examination of the parties, and may
commit to the Goale ſuch as refuſe to
pay the ſaid Workfolkes.

2. & 3. P. & M. c. 8 & 2. El. c. 13 30 Eſtreats indented ought to be made by the Clerkes of the peace, and by Stewards of Leets, of all forfeitures riſing in the Seſſions of the peace, or in Leets, vpon the ſtatutes of high-waies: of which Eſtreats one part ought to be deliuered yearly within 6. weeks after Michaelmas to the Bailiffe or high Conſtable of the Hundred, Lath, or Wapentake, wherein the default was committed, and the other part to the Conſtable & Churchwardens of the Parish in which the default was made, to the intent, that ſuch Bailiffe or chiefe Conſtable may thereby leuie by diſtreſſe the ſame forfeitures, or the double thereof, (if no diſtreſſe can be found, or if ſuch forfeitures be not payd within 20. High-wayes.

dayes

dayes after a lawfull demand of the same by the said officer) and to the intent also that the said Constable and Churchwardens of the Parish may thereby call the said Bailiffe or high Constable to account before two Justices of the Peace (the one being of the Quorum) betwéen the first day of March and the last of April yéerly for the said forfeitures, which ought by the said Churchwardens to be bestowed on the highwayes in their Parish. And vpon such account, euery such Bailiffe or high Constable shall haue for his paines viii.d. of euery pound leuied and payd by him, and may also retain xii.d. for the fée of the Clerke of the Peace, or Steward of the Léet, for euery such Estreat by any of them deliuered, as is aforesaid.

Marshalsey and Kings Bench.

31 The high Constable (in whose limit the Parish is situate) must pay at euery Quarter Session to one of the Treasurers of the Shire, such money as the Churchwardens there haue payd to him for the prisoners in the Marshalsey and Kings Bench, vpon paine of xx.s. to be lost for euery default, 43. Eliz. cap. 3, 1. Iac. cap. 25. 43. El. cap. 3.

Souldiers.

32 And the like must be done (vnder the paine of xl.s.) with that mony which the Churchwardens bring to him for disabled Souldiers.

Popish recusants.

33 The Chiefe Constable of the Hundred (where there be no Churchwardens 3. Iac.

or Conſtables of any Town, Pariſh, or Chappell in ſuch Hundred) ought once a yeere to preſent at the Quarter Seſſions, the monthly abſence from Church of Popiſh recuſants within ſuch Towns and Pariſhes, and the names of the children of nine yeeres old and vpwards, abiding with their ſaid Parents, and the age of ſuch children as neere as they can, as alſo the names of the ſeruants of ſuch Recuſants: vnder paine of loſſe of xx.s. for euery ſuch default. And if vpon ſuch preſentment the partie happen to bee indicted and conuicted (not being for the ſame abſence before preſented) the ſaid Conſtable is to haue a reward of xl.s. out of ſuch Recuſants goods.

Next after the *Conſtable* of the Hundred, Wapentake, or Franchiſe, followeth the *Conſtable* of a Towne, who is ſomewhere called a *high Conſtable*, for that he hath there a *petie Conſtable* vnder him, and is ſometimes alſo termed a head officer, becauſe in ſome corporate townes *Conſtable* is part of the name of their Incorporation; and now alſo becauſe there be ſundry things that are by the lawes indifferently referred to him, or to the Tythingman, Borſholder, or ſuch other inferiour officer of the peace: therefore I will firſt ſet downe thoſe, and then afterward ſpeake of the reſt that are committed to him only, and to none of them. Conſtable of a town.

34 If a common Inholder, or Ale-

Alehouse. house keeper will not lodge such as travell, the Ruler, Constable, or other Officer of the Towne may compell him thereto. 5. Ed. 4. 3. Acc. stat. cap. B. 76.

Every person that keepes a common Alehouse or Tiplinghouse, or doth vse commonly selling of Ale, Beere, Cyder, or Perry without licence, shall for euerie such offence forfeit twenty shillings: which penalty after conuiction before a Iustice of Peace, Maior, or other head Officer, and by warrant from such Iustice of Peace, or, &c. shall or may be leuied by the Constables or Churchwardens of the Parish, where the said offence shall be committed, to the vse of the Poore of the same Parish, by way of distresse, and (for default of satisfaction within three dayes) by sale of the offenders goods, rendring vnto him the ouerplus: And here the conuiction of such offender shall be, either by the view of such Iustice of Peace, Maior, or other head Officer, or by his owne confession, or vpon oath of two witnesses, which oath the said Iustice of Peace, or, &c. shall by this Act haue power to minister. And if such offender shall not haue sufficient goods, whereby the said twenty shillings may bee leuied by way of distresse, as aforesaid, or shall not pay the said summe within fiue dayes after such conuiction, as aforesaid, that then the said Iustice of Peace, or, &c. shall com- 3. Car. 1.

mit

mit euery such offender to some Constable, or Constables, or other inferiour Officer or Officers of the City, Borow, Towne, Parish, or Hamlet, where the offence shall be committed, or the party apprehended, to be openly whipped for the said offence, as the said Justice, or, &c. shall limit and appoint. And if the Constable or inferiour Officer doth not by himselfe or some other execute upon the offender the punishment limited by this statute, that then it shall be lawfull for the said Justice, or, &c. to commit the said Constable or other inferiour Officer to the common Goale, there to remaine without Bayle or Mainprize, untill the said offender shall be by the said Constable, or, &c. or by some other at his appointment, punished and whipped as aforesaid, or untill he the said Constable, or, &c. so neglecting his dutie shall haue payd the summe of forty shillings to the vse of the Poore of the Parish for his said contempt.

Servants.

1 El. c. 4. 35 No person retained in husbandry, or in any the Arts appointed by the Statute of Labourers (made in the fifth yeere of our late Soueraigne Lady Q. Elizabeth) may depart after the time of such Retainour expired, out of the Towne or Parish where he last serued, to serue in another, vnlesse he haue a Testimoniall vnder the seale of the Constable or other such Officer, & of two other honest Hous-

holders of the Towne or Parish where hee last serued, according to this forme. *Memorandum*, That A.G. late seruant of C.D. of E. in the county of K. Husbandman, or Taylor, &c. is licenced to depart from his said master, and is at his liberty to serue elsewhere, according to the Statute in that case made and prouided. In witnesse whereof, &c. dated the day, moneth, yeere and place of the making thereof. Which Testimoniall, the Parson, Vicar, or Curate of the parish where such Master, Mistresse, or Dame doth dwell, ought to register, taking only 2. d. therefore. And if such person be accepted into any other seruice, without shewing such Testimoniall to the Constable, or such other Officer, Curate, or Churchwarden of the place where he shall be accepted, he shall be imprisoned till he procure such a Testimoniall, which if he doe not within twelue daies next after the first day of his imprisonment, he shall be whipped as a Vagabond.

Labourers. 5. El.

36 In the time of Hay, or Corneharuest, the Constable, or such other Officer of any township, vpon request made, and for auoiding the losse of any corne, grain, or hay, may cause all such artificers and persons as be meet to labour, by his discretion, to serue by the day for the mowing, reaping, sharing, getting, or inning of corne, graine, or hay, according to the skill and qualitie of the person; and if any such

such person shall refuse so to doe, then ought such officer (vnder the paine of fortie shillings) to imprison such refuser in the Stockes, by the space of two dayes and one night.

2. & 3. P. & M. c. 8 & 1. El. cap. 13. 37 The Constable, Borsholder, or other such Officer, and the Churchwardens of euery parish, ought yearly vpon the Tuesday or Wednesday in Easter weeke, to call together a number of the Parishioners, and to chose two honest men of their Parish, to be surueyors of the workes for amendment of the High-wayes within their Parish leading to any market Towne: and ought then also to apoint fiue dayes for the amendment of those High-wayes before Midsummer then next following: and ought openly in the Church, the next Sunday after Easter, to giue knowledge of the same fiue dayes. High-wayes.

2. & 3. P. & Mar. cap. 8. & 5. El. cap. 13. They also ought to haue one part of the Estreats indented, & may call the Bailiffe or High Constable to Account concerning the forfeitures, for default of amending High-wayes, as hath alreadie appeared before. And they also, or any of them may leuie by Distresse, and by sale of such Distresse, all sums of mony forfeited for any cause within the Statute of High-waies made in the 18. yeare of the late Queene Elizabeth, (if so be that the Surueyours of High-waies shall not before haue leuied and imployed the

18. El. cap. 10.

same, within one yeere next after the offence committed) and shall yeeld Account therefore before the two Iustices of the Peace, as is afore shewed.

High-wayes. 38 The forfeits against the Statute for amendment of the annoyed High-wayes in the Wealds of Kent, Surrey, and Sussex, ought after conuiction therof to be leuied by distresse, by the Constables, Headborowes, Tythingmen, or other such Officers there, vpon warrant from the Clerke of the Peace in open Sessions, or from two of the Iustices that were at such Session, the one of them being of the Quorum. 35. El. cap. 19.

Hue and Cry. 39 After such time as the two Iustices of Peace haue ratably assessed euery Towne and Parish towards the payment of the dammages that any person hath recouered against him of the Hundred wherein he was robbed, vpon the Statute of Hue and Cry: then may the Constable or Headborow of euery such Towne and Parish, ratably within his limit, tare (according to their abilities) euery dweller in euery such Towne or Parish, toward the payment of such assessement made by the Iustices, and may also distraine euery person by his goods and chattels, that shall refuse to pay the same, and may sell the distresse, and retaine so much thereof as the taration shall be, and deliuer the ouerplus to the person so distrained. And shall (within 27. El. cap. 13.

ten

ten dayes next after he hath leuied the ſaid rates) deliuer the ſame to the ſaid Iuſtices, or one of them, to the vſe of the party robbed.

35. El. cap. 2. 40 The Miniſter or Curate of the Pariſh, and the Conſtable, Headborow, or Tythingman of the Towne, to which any Popiſh Recuſant ſhall be ſent by order of this Statute, ſhall take notice thereof by him, and ſhall enter the ſame into a booke to be kept in euery Pariſh for that purpoſe, and ſhall certifie the ſame at the next Quarter Seſſions of the Peace in that County. Popiſh recuſant.

43. El. cap. 7. 41 The Conſtable, or other inferiour Officer, muſt whip ſuch hedge-breakers, robbers of Orchards & Gardens, cutters of corne and wood, &c. as be for that purpoſe committed vnto them by the Iuſtice of Peace, vpon paine to be committed to the common Goale without Bayle or Mainprize till it be done. Hedge-breakers.

1. Iac. cap. 31. 42 Euery Conſtable, and other Officer that doth wilfully make default in leuying ſuch money as they are commanded by the Warrants of Maiors, Bailiffes, head Officers, or Iuſtices of Peace (hauing taxed the ſame for releefe of the Poore infected with the Plague) doth forfeit for euery ſuch offence xx.s. to the vſe of ſuch perſons infected. And euery Conſtable, Headborow, or other Officer (if the infection be out of any Citie, Borow, Towne Corporate, Priuiledged Plague.

ledged place, or Market Towne) may command or appoint persons infected, or being or dwelling in any house infected, to keep their house for auoyding of further infection: & if notwithstanding such persons do wilfully and contemptuously disobey such direction and appointment, offering and attempting to breake or go abroad, & to resist, or going abroad & resisting such keepers or watchmen as are appointed to see them kept in: it is lawfull for such watchmen with violence to inforce them to keep their houses. And if any hurt come by such inforcement to such disobedient persons, the said keepers, watchmen, and other their Assistants shall not be impeached therefore. And euery infected person so commanded (by the said Constable, Headborow, or other Officer) to keep house, which contrarie to such commandment, wilfully and contemptuously goeth abroad and conuerseth in company, hauing any infectious sore vpon him vncured, becommeth a Felon: But if such person haue not any such sore found about him, then for the said offence hee is to be punished as a Vagabond ought to be by the Statute 39. El. c. 4. and further, to be bound to his good behauiour for a yeere.

Drunkennesse. 43 And breause by the Statute. 4. Iac. cap. 5. (made against drunkennesse.) all Constables, Churchwardens, Headborowes, Tythingmen, Ale-cunners, and Side-men 4. Iac. cap. 5.

Side-men ſhall in their Othes incident to their offices, be charged to preſent the offences contrary to the ſame Statute, therefore it ſhall not be amiſſe to ſet before them the effect of the ſaid Statute as followeth: Euery perſon that ſhal be drunk, & ther of lawfully conuicted (which conuiction now by 21. Iac. ſhall be vpon view of ỹ Magiſtrate, the offenders own confeſſion, or ỹ proofe of one witnes) ſhal for the ſame offence forfeit 5. s. to be paid within a weeke after ſuch conuiction to ỹ Churchwardens of the pariſh where the offence was committed, to the vſe of the Poore of the ſame pariſh: And on neglect or refuſall to pay ỹ ſaid forfeiture, ỹ ſame ſhalbe leuied of the goods of the offender by warrant from the Court, Iudge or Iuſtices, before whom ỹ ſaid conuiction was: And if ỹ offender be not able to pay the ſaid 5. s. he ſhalbe ſet in the Stockes for ſix houres. And euery Conſtable, or other inferiour officer, to whom that ſhal bee giuen in charge by precept of any Maior, Bailiffe, head officer, or Iuſtices of ỹ Peace within their ſeuerall Limits, that doth neglect the due correction of the ſaid Offender, or the due leuying of the ſaid penalties where diſtreſſe may bee had, ſhall forfeit 10. s. to the Poore of the pariſh or place where the offence was cõmitted: to be leuied by diſtreſſe (by any perſon hauing warrant from the Maior, Bailiffe, or other head officer, Iuſtices of

21. Iac. cap. 7.

Peace,

Peace, or Court where such conuiction shall be) and to bee payd to the Churchwardens, as before limited. And euery person which doth continue drinking in any Inne, Victualling house, or Alehouse, in the same Citie, Towne, Village, or Hamlet wherein he dwelleth, or (by 1. Car. cap. 4.) wherein hee dwelleth not (other than such as are inuited by trauellers, labouring and handicrafts men in Cities, Townes corporate, and Market Townes, vpon vsuall working dayes, for one houre at dinner to take their diet; labourers and workmen, which for following of their worke, soiourne, lodge, or victuall in any Inne, Alehouse, or Victualling house) other than for vrgent occasions, allowed by two Iustices of Peace, and the same be seene by any Maior, or other head Officer, or Iustice of Peace within their seuerall limits, or proued by oath of two witnesses. (But by 21. Iac. the view of the Magistrate his owne confession, or the proofe of one witnesse is sufficient to connict him of the offence) before any such Maior, &c. shall therefore forfeit 3. s. 4. d. to the vse of the Poore of the Parish where the offence was committed, to be leuied as aforesaid: and if such offender being lawfully conuict, be not able to pay the said forfeiture, then the Maior, Bailiffe, head Officer, Iustice of Peace, or Court, where such conuiction was, may set such

21. Iac. cap. 7.

offender

offender in the Stockes foure houres. And all the ſaid offences are to bee preſented (by ſuch Conſtables, Churchwardens, or other inferiour Officers) before the Juſtices of Aſſiſe in their circuit, Juſtices of Peace in their Seſſions, Maiors, Bailiffes, or other head Officers of Cities or Townes Corporate, hauing power to inquire of treſpaſſes, &c. and in Court Leets. And euery perſon being a ſecond time conuicted of Drunkenneſſe, ſhall be bound with two ſureties in Recognizſance of 10.li. to be from thenceforth of good behauiour. But no perſon ſhall be puniſhed for any offence mentioned in this Statute, vnleſſe he be for the ſame preſented, indicted, or conuicted within ſixe moneths after the offence committed. Laſtly (by the 21. Iac.) the oath of him that confeſſeth the offences aforeſaid, ſhalbe a ſufficient proofe againſt any other offending at the ſame time.

21. Iac. cap 7.

44 Euery Conſtable and Headborow, by Warrant vnder the hand of two Iuſtices of Peace, may ſearch the houſes of perſons ſuſpected (other than ſuch as haue xl.li. yearly of inheritance, 80.li. yearly of freehold, or be worth 400.li. goods) for ſetting dogges or nets for taking of Feaſants & Partridges, & the ſame may take, kill, & cut in pieces, as things prohibited, & forfeited to ſuch of the ſaid Officers as ſhall find out & take the ſame.

9. Iac. cap. 11.

Setting dogs and nets.

45 Euery

Who be Rogues.

45 Every of these persons following, and being above the age of 7. yeeres, is by the law declared to be a Rogue, Vagabond, or sturdy Beggar; that is to say: 19. El. cap. 4.

Every person that calleth himselfe a Scholler, and goeth about begging: Every Sea-fearing-man (not having suffered Shipwracke, nor having lawfull Testimoniall from a Iustice of Peace, of, or neere the place where he landed) that goeth about begging, or exceedeth the limits of such Testimoniall: Every idle person that goeth about begging, or that vseth any subtle craft, or vnlawfull game or play, or that feigneth knowledge in Physiognomy, Palmistry, or other like craftie Science, or pretendeth to tell Destinies, Fortunes, or such like Phantasticall imaginations. Every wandring person that vttereth himselfe to be a Proctour, Procurer, Patent gatherer, or collector for any Goale, Prison, or Hospitall. Every Foncer, Beareward, Minstrell, or cunning player of Enterlude, other than such player of Enterlude as belongeth to a Baron or other honourable person of greater degree, & be authorised vnder his hand & seale of Armes. (But see the statute made in the first yeer of the Reigne of our Soueraigne Lord K. Iames, c. 7.) That from thencefoorth no authoritie to be giuen or made by a Baron of this Realme, or any other honourable personage of greater degree, vnto any

any other perſon or perſons, ſhall be auaileable to free and diſcharge the ſaid perſons, or any of them from the paines and puniſhments in the ſaid Statute (made an. 39. Eliz. ca. 4. mentioned, but that they ſhall bee taken within the offence and puniſhment of the ſame Statute.) Euery Iugler, Tinker, Pedler, Petichapman, or Glaſſe-man that wandreth abroad. Euery Wandring perſon, or common Labourer, not hauing otherwiſe than by labour to maintaine himſelfe, and being able of bodie, that refuſeth to worke for lawfull wages. Euery perſon deliuered out of Goale, that beggeth for Fees, or trauaileth begging. Euery one that pretending loſſe by fire, or otherwiſe, wandreth begging. Euery one (not being a Felon) that pretendeth to be an Egyptian, or wandreth in the forme (or habit) of counterfeit Egyptians. Euery impotent and diſeaſed perſon (being lawfully licenced by two Iuſtices of the Peace to goe to Bath, or Burton) that forbeareth not to begge, or returneth not according to ſuch Licence: and euery poore perſon (appointed to aſke reliefe in his Pariſh by the Ouerſeers) that beggeth in any other ſort than is appointed.

1. Iac. c. 7

(By the Statute made ann. 1. Iac. cap. 31. Such as wilfully goe abroad out of houſes infected with the Plague, (being commanded to keepe houſe) though they haue

1. Iac. cap. 31.

haue no soyr about them, are punishable as Vagabonds in all respects ought to be by the Statute (39. Eliz. cap. 4.) And by the Statute made anno 7. Iac. cap. 4. 7 Iac.
Able persons, running out of the Parishes, and leauing their families vpon the Parish, shall be taken and deemed to be Incorrigible Rogues, and endure the paines of Incorrigible Rogues.)

The Constable, Headborow, and Tythingman of the Hundred, Parish, or Tything, shall vpon the taking of euerie such Rogue, (the Tythingman or Headborow being assisted with the aduice of the Minister, and one other of the Parish) appoint the same Rogue to be stripped naked from the middle vpward, and be openly whipped vntill his or her body be bloudy, and shall forthwith send such Rogue from Parish to Parish (by the Officers of the same) the next straight way to the Parish where such Rogue was borne, if that may bee knowne by his or her confession or otherwise: and if that cannot be knowne, then to the Parish where he or shee last dwelt before that punishment by the space of one whole yeere: and neither of them being knowne, then to the Parish through which he or she last passed without punishment.

After which whipping, such Rogue shall haue a Testimoniall subscribed and sealed with the hands and seales of the said Constable,

Constable, Headborow, Tythingman, and Minister, or of any two of them, the substance of which shall be registred by the Minister in a booke to be prouided for that purpose, vnder the paine of fiue shillings for euery default thereof.

And the forme of that Testimoniall may be thus.

A.B. a sturdie Rogue, of tall stature, red haired and bearded, about the age of 30. yeeres, and hauing a wart neere vnder his right eye, borne (as he confesseth) at East Tilbury in Essex, was taken begging at Shorne in this county of Kent the tenth of March, 1624. and was then there lawfully whipped therefore, and he is appointed to goe to East Tilbury aforesaid, the direct way by Grauesend, ouer the Riuer of Thames; for which he is allowed one whole day, & no more at his perill: subscribed and sealed the day and yeere aforesaid. *Kent.*

By vs { *C.D. Minister*, *E.F. Borsholder*, *G.H. Parishioner* } of Shorne aforesaid.

And if such Rogue do not accomplish the order of such Testimoniall, then is he or she to be whipped at euery place for euery such default, till he or she repaire to the place so limited for him: And this Testimoniall must be carried with him from Officer to Officer, as is aforesaid: wherein

wherein it is needfull to set downe some speciall marke of the body of the Rogue, to the end that neyther one Officer deceiue another, nor the Rogue deceiue them all.

But if such Rogue so taken, appeare to be dangerous to the inferiour sort of people there, or will not bee reformed from Roguish life by the meanes aforesaid, then any two Iustices of Peace of the limit (the one being of the Quorum) may commit such Rogue to the house of Correction or Goale.

(By the Statute an. 1. Iac. c. 7. Euery person ought to apprehend or cause to be apprehended such Rogues, Vagabonds, & Sturdy beggers, as he seeth or knoweth to resort to his house to begge, gather or receiue Almes, and them ought to carry, or cause to be carried to the next Constable or Tythingman, vpon paine of 11.s. for euery default.) 1. Iac. c.

Euery Constable, Headborow, and Tythingman, that shall be negligent, or shall not doe his best indeauour to take, punish, & conuey ouer the Rogues aforesaid, shall lose 1.s. for euery default. (By the Statute an. 1. Iac. ca. 7. the Constable or Tythingman is to forfeit 11.s. for euery such default.) And euery other person, that doth disturbe or let the execution of this Act of Rogues, shall lose 6.l. for euery default, and be bound to the good behauiour. 1. Iac. c.

And

And euery such Constable, Headborow, and Tythingman, is in like sort to take and punish, and to conuey from one to another, euery Rogue and Beggar that shall be brought and set on the land here, from Ireland, Scotland, or the Isle of Man, till he come to the next Port or Parish in or neere where hee was first landed, vpon forfeiture of x.s. for euery default.

Now, forasmuch as the execution of this law, as also of that for the Poore, is vpon good reason required at the hands of these *Constables*, *Borsholders*, and such like inferiour *Officers*, because as they of the common sort bee most annoyed thereby, so are they in euery corner to haue a ready hand and whip to remedy the euill: I thinke good for their better direction herein to set downe those resolutions and deuices, which (as it is commonly said) were giuen by the Queens *Iustices* at *Westminster*, soone after the making of the said Statutes: and thus they follow:

A Rogue affirmeth that he was borne in such a Towne in such a Countie: then ought he to be sent thither, if it may not otherwise appeare that he was born elsewhere: and if he were not borne there in truth, then is he to be said an Incorrigible Rogue, and is to be sent thence to the house of Correction in the Countie

to which he is sent: and if there be none there, then to the Goale vntill the next Sessions, there to be dealt with according to the Statute.

2 The same course is to be obserued if it appeare not where he was borne, and so if he vntruly affirme, that he was last dwelling in such a Towne, in such a County by the space of a yeere, and was not in truth.

3 If the husband or wife haue a house, & the husband and wife rogue about, they ought to be sent to the towne where that house is, and so of an Inmate.

4 The wife and children vnder seuen yeeres of age, being Vagrant, must goe and bee placed with the husband: if the husband bee dead, then with the wife where she was borne or dwelt: and the Vagrant children aboue 7. yeers of age, must bee sent to the place of their birth. And if the Vagrant parents with their children vnder 7. yeeres, be placed at the place of birth of their parents, or at the place of last dwelling (as the case shall fall out) if afterward the parents, or eyther of them die, or runne away, yet the children (once setled) must remaine there still, and may not be sent to their place of birth, though after they grow to the age of 7. yeeres.

5 The wife being a Vagrant Rogue, ought to be sent to the husband, though he be but a seruant in another Towne.

6 The Rogue whose place of birth (or dwelling) cannot be knowne, hath wife and children, under seuen yeeres of age, they must goe with the husband to the place where they were last wilfully suffered to passe without punishment, where the children must bee releeued by the worke of their parents, though the parents bee committed to the house of Correction.

7 If any (not being Rogues) shall trauell with their children through a towne, & the father or mother die, or run away, the towne is not bound to keepe them where they die, nor to send them away, but only in charitie, except they become wandring Beggars.

8 If the parents be able to worke, and may haue worke, they are to finde their children by their labour, and not the Parish, but if they be ouer-burthened with children, it shalbe a very good way to procure some of them to be placed Apprentices according to the Statute.

9 No man is to be put out of the town where he dwelleth, nor to be sent to his place of birth (or last habitation) but a Vagrant Rogue; nor to be found by the towne, except the party be impotent, but ought to set themselues to labour, if they be able, and can get worke, if they cannot, the Ouerseers must set them to labour: And so of them that haue or shall haue houses, when their estates be expired:

And seruants, whose times of seruice are ended, though they cannot get houses, for they must prouide themselues houses anew, if they be not impotent.

10 Such persons as be of any Parish, and haue able bodies to worke, and be no wanderers abroad out of the Parish, though they refuse to worke at such wages as is rated (or commonly giuen) in those parts, are notwithstanding not to be sent to their place of birth (or last dwelling) by the space of a yeere, but to the house of Correction, vpon consideration had of both the Statutes of the Poore and Rogues. But if they haue any lawfull meanes to liue by, though they be of able bodies, and refuse to worke, yet are they not to be sent to the house of Correction.

11 Such as will remoue or put any out of their Parish that be not to be put out, this is against the Statute concerning the reliefe of the Poore, & fineable: and if any haue bẽn so sent, they may be sent backe againe.

12 If any be sent to a Town where to he ought to be sent, and is refused, (being a sturdy, or an impotent Rogue) the persons refusing shall forfeit 10.l. and he that is so to be sent, is to be offered to the Churchwardens and Ouerseers.

13 To send the Rogues by a generall Passport, without conueying them from parish to parish, is a let to the conueying

of

of Rogues according to the Statute, and ſo a forfeit of v.li. vpon them. And to goe with ſuch a Paſport, is but ſtill to continue a Rogue, to be puniſhed by whipping.

14 If the Officer will not receiue a Rogue, to conuey him to the place where he was borne (or dwelt) this is a forfeiture of v.li. in the Officer, that ſhall not receiue the partie, to conuey him or her ouer.

15 None may be ſuffered to take reliefe at any mans doore, though within the ſame Parish, vnleſſe it be by the order of the Ouerſeers, according to the Statute: neyther may any be ſuffered to begge by the High-wayes, though in their owne Parish.

16 By this word Parents, is vnderſtood a Father, or a Grandfather, Mother, or Grandmother, being able perſons.

17 Within the word Children, is included any childe, or Grandchilde, being able.

18 Parſons, or Vicars, &c. be bound (as inhabitant) to the reliefe of the poore, as well as others that inhabit within the Parish.

19 Euery one that hath tythes impropriate, Coale mines, or lands in manuall occupation, &c. is chargeable: and ſo for ſuch as haue ſaleable woods, proportioning the ſame to an Annuall benefit.

20 If there be but one Churchwarden in the Parish, he sufficeth, with the other Ouerseers.

See before Article 25. the dutie of Constables & Tythingmen in searching for and punishing Rogues, Vagabonds, and Sturdie Beggars, according to the Statute 7. Iac. cap. 4.

All these things last aforesaid, doe pertaine as well to the charge of a *Tythingman, Borsholder, Headborow, Chiefe-Pledge*, or such other inferiour officer, as they do to the *Constable* of such a Town or Parish, that hath any of those other officers vnderneath him. But some other points of charge there be, that belong to such a *Constable* onely, and not to any of them; as for example:

Weights and measures.

46 Euery Citie, Borow, and Market Towne, that hath a Constable, ought also to haue common measures sealed, and also common weights sealed, at which the inhabitants may freely weigh. 8. H. 6. cap. 5. 11. H. 7. cap. 4.

Merchandise.

47 If any wools, or other Merchandise be shipped in the Staple in any suspected place adioyning to the coast of the water, then Indentures ought thereof to be made betweene the owner, and the Maior or Constable of that place: or otherwise such Merchandise shall be forfeited. 14 H. 6. cap. 5.

Vnlawful games.

48 The Maior, Sheriffes, Bayliffes, Constables, and other head Officers within 33. H. 8. cap. 9.

within euery City, Borow, and Towne within this Realme, where any such officers be, ought, vnder the paine of xl.s. for euery default, once euery moneth at the least, to make search (as well within liberties as without) in all places, where any vnlawfull games shall be suspected to be kept, and may arrest and imprison as well the keepers of such places, as the haunters to the same, till they be found no more to keep and haunt such places. And if any such head Officers shall finde or know, that any Artificer, Craftsman, Husbandman, Apprentice, Labourer, seruant at Husbandry, Journeyman, or seruant of Artificer, or that any Mariner, Fisherman, Waterman, or Seruingman, doth play at the tables, dice, cards, tennice, bowles, closh, coiting, logating, or any other vnlawfull game out of Christmas time, or out of their Masters house or presence in the Christmas time, vnlesse it be by ỹ licence of such Masters as hath C.l. by the yeere, or aboue, & then also, that playing be within the precinct of such Masters house, garden, or orchard: then such head Officer may commit such Offender to Ward, till he be bound by Obligation to the Kings vse (in such summe as to the discretion of such Officer shall be thought reasonable) that he shall not from henceforth vse such vnlawfull games.

33.H.8. cap.9. 49 Those foure Iustices of Peace, that Wardens

bee authorised by the Statute to make taration of money for the amendment of any decayed bridge in the High-way, ought to make that taration by the assent of the Constables, or of two of the most honest inhabitants of euery Towne or Parish.

Vessels. 50 In all Cities, Boroughes, and Townes wherein no Wardens of Coupets be, the Maior, Sheriffes, Bailiffes, Constables, or other head Officers there, haue power to search, view, and gawge Barrels, Kilderkins, Firkins, and other Vessels, to be made there, and to take such aduantage thereby, and in such manner, as by the Wardens of Coupers within the city of London may be taken on euery behalfe. 23. H. 8. cap 4.

Making of Malt. 51 The Constable of euery Borough, or Market Towne, or other Towne, may view, search, and survey all such malt as shall bee made or put to sale there: and if hee shall finde any Barley Malt, made at any time (the moneths of Iune, Iuly, and August only excepted) but that the same shall haue the space of three weekes (at the least) in the sat, floore, steeping, and such sufficient drying thereof, and in these three moneths, the space of seuenteene dayes at the least. And if he finde any person to put to sale any good Malt mingled with Malt not sufficiently made, or with Malt made of molyburnt or spiked Barley, or to put to sale any 27. El. cap. 14.

Malt

Malt not ſufficiently well troden, rubbed, and fanned, whereby halfe a pecke of duſt or more, may bee fanned out of one quarter thereof: Then may ſuch Conſtable, with the aduice of one Iuſtice of Peace in that Shire, cauſe the ſame Malt to be ſold to ſuch perſons, and at ſuch reaſonable prices (vnder the common price of the Market) as to his diſcretion ſhall ſeeme expedient.

41. El. ca. 2. & 3. 52 In default of agreement of the Parishioners betweene themſelues, the Conſtables and Churchwardens of each Parish, (or the more part of them) may rate and allot within their Parish their aſſeſſe for the Stocke of the Shire wherewith that Parish was charged at the Quarter Seſſions: and they alſo may leuie the ſame vpon any Pariſhioner by diſtreſſe, and ſale of his goods, rendring the ouerplus to him. Stocke of the Shire.

21. Iac. cap. 7. 1. Iac. c. 9 3. Car. 4. 53 And becauſe by the Statute of 21. Iac. cap. 7. (made againſt tipling) all Conſtables, Churchwardens, &c. ſhall in their Oathes incident to their Offices, be charged to preſent the offences contrary to the Statute of 1. Iac. cap. 9. therefore it ſhall not be amiſſe to ſet before them the effect of the ſaid Statute, as followeth: Tipling.

Euery Inkeeper, Victualer, or Alehouſe-keeper, that permitteth any to continue tipling in his houſe, (except ſuch as are inuited by Trauellers, Labouring

men

men in dinner time, or which lodge in such houses for time of their continuing in worke, or such as for vrgent occasions are allowed by two Iustices of Peace) shall forfeit 5.s. for the Poore of the Parish: and that selleth lesse than a full Alequart of the best Beere or Ale, and of the small two quarts for a penny, shall forfeit 10.s. to the vse aforesaid, the same offences being viewed by any Maior, Bayliffe, or Iustice of the Peace in their seuerall limits, or proued by oath of two witnesses (by 21. Iac. ca. 7. one witnes or his owne confession is sufficient to commit him) before such Maior, &c. which penalties are to be leuied by the Constables, or Churchwardens of the Parishes where the offences are committed, by distresse (and for default of satisfaction within six daies, the same distresse to be presently apprised and sold, and the surplusage to be deliuered to the party of whom the distresse was taken) vnder paine of losse of 10.s. to the aforesaid vse by neglect of their dutie therein, or in certifying the default of distresse by the space of twentie daies to the Maior, Bayliffe, or other head officer, or Iustice of the P. within whose iurisdiction the offence was committed. For which penalties to be leuied by the Constables or Church-wardens, they shall be accountable to their successors and the parishioners.

54 All Iustices of Peace, Maiors, Bailiffes,

1. Iac. cap. 29. liffes, Head Officers, and Constables, as well of Cities and Townes Corporate, as in euery Countie of this Realme, may in Lent time enter into all houses of Victuallers, and common Victualling houses, where dressing of flesh in Lent shall be suspected, and finding any Oxen, Beeues, Weuels, Hogs, Calues, Rams, Ewes, or Weathers killed or dressed in Lent time, or on Fish dayes, (except such as are prouided for ships, or killed three dayes next before Easter) may seise the same as forfeited, and distribute it to prisoners, and other poore folkes by their discretion. Victualling houses.

1. Iac. cap. 31. 155 Where the Infection is in any Citie, Borow, Towne corporate, priuiledged place, or Market Towne, the Maior, Bailiffe, Constable, or other head officers there, may command persons being or dwelling in houses infected to keepe in, and the persons disobeying such command incurre such danger, as before is expressed in the Article 42. Plague.

3. Iac. c. 4 156 The Churchwardens and Constables of euery Towne, Parish, or Chappelry, or one of them, shall once euery yeare present at the Quarter Sessions, the monethly absence from Church of all Popish Recusants in such Townes & Parishes, and the names of their children of 9. yeers old & vpwards, abiding with their parents, and if they can, their age, & the name of their seruants. And in default Present the names of Recusants.

default of such presentment, shall forfeit 11.s. And if the party upon such presentment happen to be indicted and convicted (not being for the same absence before presented) they shall have a reward of 21.s. of the Recusants goods.

The duties of Constables in making an indifferent tare for the charges of conveying an Offender to the Goale. See before, Art. 24.

Sea fish. 57 By the Warrant of one or more Justices of Peace, it is lawfull for the Constables and Churchwardens of every Market Towne, Parish, or Liberty, within which any offence shall be done in erecting of new weares along the sea shore, or in any Hauen, Harbour, or Creek, or within five miles of the mouth of any Hauen or Creeke; in destroying of any Spawne of Sea-fish in any Weare or other Engine: or in fishing with any draw-net, or dag-net under three inches meash in any Hauen, &c. or within five miles, &c. against the Statute, 3. Iac. cap. 12. may levie the forfeitures by way of distresse, and sale of the Offenders goods, rendring to them the surplusage. 3. Iac. cap. 12.

Apprentices. 58 The Parson or Vicar of every Towne or Parish not incorporate, together with the Constable or Constables, Churchwarden or Churchwardens, Collectors and Overseers of the Poore, or the most part of them (where money is 7. [illegible]

already

already giuen, or ſhall hereafter be giuen to be continually imployed for the binding out as Apprentices the poorer ſorts of Children) ſhall, within the ſaid Townes and Parishes, haue the nomination and placing of ſuch Apprentices, and the guiding and imployment of ſuch monies as haue been heretofore ſo giuen, or which hereafter ſhall be giuen, to and for the continuall binding forth of ſuch and ſo many Apprentices, and in ſuch ſort as is already, or ſhall hereafter be ſo giuen and appointed, eyther by the laſt will, or any writing vnder the hand and ſeale of the giuers of ſuch monies: and if any of them wilfully forbeare or refuſe, according to their duties to imploy ſuch monies, by meanes whereof the ſaid mony ſhall not be imployed accordingly: then euery of them ſo offending ſhall forfeit three pounds for euery ſuch offence. And the Maſter, Miſtreſſe, or Dame of ſuch Apprentices ſhall bee bound with one or two ſufficient ſureties, in double the ſumme they haue receiued with ſuch Apprentices, to ſuch Parſon, or Vicar, Conſtable, &c. to repay the mony ſo receiued at ſeuen yeeres end, or within three moneths next after the end of the ſaid ſeuen yeeres. And if the Apprentice, Maſter, Miſtreſſe, or Dame happen to dye within the ſaid ſpace of ſeuen yeeres, then within one yeere next after ſuch death. And the Parſon, or Vi-

car,

ear, Constable, &c. ought to put forth and imploy such monies within three monethes at the furthest after the same shall come to their hands. And if there shall not be found fit persons to be bound out Apprentices in the Townes and Parishes where such monies are or shall be given to be imployed as afore is declared, the poorest children of any the Parishes next adioyning may (by the discretion of the said Parson, &c.) be bound Apprentices, taking such bonds as is aboue mentioned. And choice must be alwayes made of the poorest sorts of children: And that no Apprentice bee aboue 15. yéers old when he shall be first bound. And the said Parson or Vicar, Constable, &c. are once euery yéere in Easter week, or within a moneth after Easter day, accountable before foure, three, or two Iustices of Peace, dwelling in or next to the said Townes and Parishes, for all such mony as they haue imployed in binding of Apprentices, and of all bonds and obligations taken for payment thereof: and of the mony remaining in their hands: and are at such account, or within ten dayes after, to deliuer to their Successors, or to such as then be in their times or places, all the said bonds and obligations, and such monies as remain in their hands, not then imployed.

Swearing & curling. 59 If any person or persons at any time or times hereafter prophanely 21. Ia. 21.

sweare,

ſweare, or curſe, eyther in the hearing of a Juſtice of Peace of the County, or of any Maior, Juſtice of Peace, Bayliffe, or head Officer of any Citie or Towne Corporate, where ſuch offence is or ſhall bee committed, or ſhall bee thereof conuicted by the oathes of two witneſſes, or by confeſſion of the partie before any ſuch Juſtice of Peace of the Countie, or head Officer, or Juſtice of Peace in the Citie or Towne Corporate, where ſuch offence is or ſhall bee committed, (to which ends euery ſuch Juſtice of Peace, and euery ſuch head Officer, ſhall haue power by this Act to miniſter the ſame oath,) That then euery ſuch Offender ſhall for euery time ſo offending forfeit, and pay to the vſe of the Poore of that Parish where the ſame offence is or ſhalbe committed, the ſumme of twelue pence. And it ſhall alſo bee lawfull for the Conſtable, Churchwardens, and Ouerſeers of the Poore of that Parish, by Warrant from ſuch Juſtice of Peace or head Officer, to leuie the ſame ſumme and ſummes of money by diſtreſſe and ſale of the Offenders goods, rendring to the partie the ouerplus. And in defect of ſuch diſtreſſe, the Offender, if he or ſhee be aboue the age of twelue yeares, ſhall by Warrant from ſuch Juſtice of Peace, or head Officer, be ſet in the Stockes by ſixe whole houres: But if the Offender

by

be under the age of twelue yeeres, and shall not forthwith pay the said summe of twelue pounds, Then he or she by warrant of such Iustice of Peace, or head Officer, shall bee whipped by the Constable, or by the Parent, or Master in his presence: Prouided neuertheless, That euery offence against this law shall be complained of, and proued, as aboue said, within twenty dayes after the offence committed.

Prophanation of the Lords Day.

60 There shall be no meetings, assemblies, or concourse of people out of their owne Parishes on the Lords Day within this Realme of England, or any the Dominions thereof, for any sports or pastimes whatsoeuer: Nor any Beare-baiting, Bull-baiting, Enterludes, Common Playes, or other vnlawfull exercises or pastimes, vsed by any person or persons within their owne Parishes; and if any person or persons offend in any the premisses, he shall forfeit for euery such offence three shillings foure pence, the same to be imployed and conuerted to the vse of the Poore of the Parish, where such offence shall be committed: And if any one Iustice of the Peace of the Countie, or the chiefe Officer or Officers of any Citie, Borough, or Town Corporate, where such offence shall bee committed, vpon his or their view, or confession of the party, or proofe of one or more witnesse by oath (which the said Iustice

1. Cars.

Juſtice, or chiefe Officer, or Officers ſhall by vertue of this Act haue authoritie to miniſter) ſhall find any perſon offending in the premiſſes, the ſaid Juſtice, or chiefe Officer, or Officers ſhall giue Warrant vnder his or their hand & ſeale to the Conſtables or Churchwardens of the Pariſh or Pariſhes where ſuch offence ſhall be committed, to leuie the ſaid penalty ſo to be aſſeſſed by way of diſtreſſe, and ſale of the goods of euery ſuch offender, rendring to the ſaid offenders the ouerplus of the mony raiſed of the goods ſo to be ſold: And in default of ſuch diſtreſſe, to ſet the party offending publickly in the Stockes by the ſpace of three houres. But this offence muſt be proſecuted within one moneth after it is committed.

3. Car. 1. Euery Carrier, Waggon-man, Carter, Wayne-man, or Drouer, that trauels vpon the Lords Day, ſhall forfeit 11.s. & euery Butcher that kils, or ſels any victual vpon the ſame day, ſhal forfeit vi.s. viii.d. which ſums & penalties after conuiction before a Juſtice of Peace, Maior, or other head Officer, & by Warrant from ſuch Juſtice of Peace, or, &c. ſhall or may be leuied by any Conſtable or Churchwarden, to the vſe of the Poore of the Pariſh where ſuch offence ſhall be committed, by way of diſtreſſe and ſale of the Offenders goods, rendring vnto him the ouerplus: And here the conuicti-

on of such offender shall be, eyther by the view of such Iustice of Peace, Maior, or other head Officer, or by his owne confession, or vpon oath of two or moe witnesses, which oath the said Iustice, or, &c. shall by this Act haue power to minister. But this offence must bee prosecuted within fiue moneths after it is or shall be committed.

61 In all these cases also last before rehearsed, it seemeth that Borsholders, Tythingmen, Headborowes, & other such (being in townes or parishes vnderneath Constables that be there) cannot meddle, because such Constables be (in comparison of them) called Head Officers.

62 Now therfore vpon all ỹ whole discourse before written, it may wel appear, that Borsholders, Tythingmen, Headboroes, Boroheads, Thirdboroes, and Chiefe Pledges, whether they be there the only officers for the Peace, or be vnderneath Constables, may, within their Borowes, Tythings, or Hamlets, do many things that the other may do, and that there are many other points which those other officers may doe, & wherewith these Borsholders & the rest cannot meddle at all. And therfore to auoide idle repetition of matters already spoken, I say shortly, that if an vnder Borsholder, Tythingman, Headborow, Borohead, Thirdborow, or Chiefe Pledge, will see what belongeth to him to doe, he must looke before vpon all

such

ſuch caſes, where his power is declared to be equall (for thoſe points) with the power either of a high Conſtable of the Hundred, or a Conſtable of a Towne or Pariſh: for in all ſuch things hee hath to deale as well as they: But where any thing before is ſhewed to pertain only to the high Conſtable of a Hundred, or only to the Conſtable or chiefe or head Officer of a Towne or Pariſh, there ſuch a Borſholder, Tythingman, or any of the reſt hath nothing to doe with it.

And thus having opened ſo ſhortly and plainly as I could, the duties of all theſe ſaid miniſters of the Peace, I do ſhut vp this worke: deſiring thoſe that ſhall take any profit of this labour, to yéeld thanks to God the moſt liberall giuer.

FOr the more eaſe of euery of theſe officers in finding out that, which particularly belongeth vnto each of them, I haue diuided the former *Treatiſe* into 60. ſeuerall *Articles* (or parts) as it may appear at the beginning of each *Article*, by the ſeuerall *Figure* thereof, by which euery officer may bee directed ſeuerally to ſo much as appertaineth to himſelf, if he wil marke this ſhort table following: For,

The high Conſtable of the Hundred, Rape, Franchiſe, or Wapentake, hath the execution of all thoſe matters that doe lye within theſe Articles, that is to ſay:

Articles concerning

3, 4 His name and beginning.
11, 12, 13, 14, 15, 16 The Peace, & seruing of Warrants.
17 Execution of Statutes.
18 Physicians.
19, 20, 21 Purueyors.
22 Souldiers.
23 Coroners.
24 Conueying offenders to prison.
25, 45 Rogues and Beggers.
26 Prisoners.
27 Petite Sessions.
28 Watches, and High-wayes.
29 Clothiers.
30 High-wayes.
31 Money for prisoners.
32 Money for Souldiers.
33 Popish Recusants.
43 Drunkennesse.

And the Constable of a Towne & Parish, hath his part in all things contained within any of these Articles following, that is to say:

Articles concerning

4 His name and beginning.
11, 12, 13, 14, 15, 16 The Peace, & seruing of Precepts.
17 Execution of Statutes.
18 Physicians.
19, 20, 21 Purueyors.
22 Souldiers.
23 Coroners.
24 Conueying offenders to prison.
25, 45 Rogues and Beggers.
34 Alehouses.
35, 36 Seruants and Labourers.
37 High-wayes.
38 High-wayes in the Wealds.
39 Huy and Cry.

40 Popish

40 } Popish Recu-
56 } sants.
41 Hedge-breakers.
42 } Plague.
55 }
43 Drunkennesse.
44 Setting dogs & nets.
46 Weights and measures.
47 Merchandize.
48 Vnlawfull games.
49 Bridges.
50 Vessels.
51 Making of malt.
52 Stocke of the Shire.
53 Tipling.
54 Victualling houses.
57 Sea fish.
58 Apprentices.
59 Swearing & cursing.
60 Prophanation of the Lords day.

And euery Borsholder, Tythingman, Borowhead, Headborow, Thirdborow, and Chiefe pledge, may for his Borow or Tything, learne his office by these Articles, that is to say:

Articles concerning

5 His name.
6 } His first office.
7 }
8 }
9 } His latter office.
10 }
11 }
12 } Keeping of the
13 } Peace.
14 }
15 } Precepts to bee
16 } serued.
17 Execution of Statutes.
18 Physicians.
19 }
20 } Purueyors.
21 }
22 Souldiers.
23 Coroners.
24 Conueying offenders to prison.
25 } Rogues and Beg-
45 } gers.
30 Highwayes.
34 Alehouses.
35 } Seruants and La-
36 } bourers.
37 Highwayes.
38 Highwayes in the Wealds.
39 Huy and Cry.
40 Popish Recusants.
41 Hedge-breakers.
42 Plague.
43 Drunkennesse.
44 Setting dogges and nets.

The dutie of Church-Ministers.

THe latter Lawes hauing imployment of many to make, hath borrowed some vse in a few easie matters of spirituall Ministers, chiefly for the help and readinesse of their pen, which in many Parishes few or none (besides they) can serue withall.

1 The Minister (or Curate) of the Parish ought to Register the Testimoniall that is made to a seruant to appeare at the end of his Terme, and he is to take 2.d. therefore, and not aboue.

2 He also is to assist the Borsholder or Tythingman in appointing a Rogue to be whipped, and must Register (in a booke for that purpose) the Testimoniall that such Rogue ought to haue after whipping, vpon paine to lose v.s. for euery default.

Licence to eate flesh.

3 He may giue Licence to a sicke person (during the sicknesse only,) to eate flesh vpon dayes prohibited, and must (for 4.d.) Register the same in the Church booke, if the sicknesse continue

5. El. c. 5

nue aboue eight dayes after the Licence. But see the Statute, 1. Iac. cap. 29. That no Licence granted to any sicke person by force of the Statute 5. Eliz. cap. 5. shal be any sufficient warrant to such person to eate any Beefe, Veale, Porke, Mutton, or Bacon in Lent, or vpon any day now obserued as a Fish-day, but that the said sicke person for dressing or eating such Beefe, &c. shall incurre the danger and penalty comprised in the said Statute of 5. El. cap. 5.

Iac. cap. 29.

35 El c. 1

4 The Minister or Curate of the Parish, may require any person within three moneths after his conuiction vpon the Statute 35. Eliz. ca. 1. to make publicke confession and submission in the Seruice time on a Sunday or Festiual day. And he that shall (after notice to him giuen by the Minister, or Curate, or Church-wardens) maintaine, or retaine in his house, or otherwise, any person obstinately refusing to come to Church, shall lose 1. li. for euery such person, for euery moneth so maintained or retained.

Comming to Church.

35. El c. 2

5 The Minister or Curate of the Parish, and the Constable, Headborow, or Tythingman of the Towne, to which any Popish Recusant is sent, shall (vpon notice thereof by himselfe) enter the same into a book to be kept in euery Parish for that purpose: and shall certifie the same at the next Quarter Sessions of the peace in that County.

Popish Recusant.

Fifth day of November.

6 Euery Minister after Morning prayer or preaching, is alwaies vpon the fifth day of Nouember to reade publickly, distinctly, and plainly, the Statute made in the third yeere of the reigne of our most gracious Soueraigne king Iames, for publicke thanksgiuing to Almightie God euery yeere on the same day, for his deliuerance of the King and State from the Powder Treason. 3. Iac. c. 1.

See before in Constables, &c. Art. 25. his hand to be set to the account of Constables and Tythingmen, of Rogues taken and punished by them.

See in Constables, &c. Art. 58. the duty of the Parson or Vicar, in binding out of Apprentices, and in imploying of mony giuen to that vse.

The duties of Churchwardens.

WHilst I passed thorow some of the Statutes before concerning the offices of Constable and Borsholder, I found them mingled with diuers duties pertaining to the Churchwardens of Parishes, the Surueyors of the Highwaies, the Distributers of the prouision for the destruction of Vermine, & Ouerseers of the poore, whereby I was also mouued to adde somewhat of these offices, the rather because I was perswaded, that with that little more of labour,

labour, I might doe a great deale more of good, seeing that thereby the plaine Countryman should (after a sort) be furnished with all maner of vnderstanding (in the Temporall Law) needfull for the exercise of any of those offices that may lightly fall vpon him.

First therefore I will speake of the Churchwardens office, but that so farre forth onely, as the common Lawes, and statute Lawes of the Realme doe leade mee, knowing that such other parts of that office as doe rest vpon the Lawes Ecclesiasticall, be from time to time sufficiently both taught and called vpon by those that haue the execution of the same.

Office of Churchwardens by the common law.

11.H.7. vlt. The Churchwardens of Parishes be taken (in fauour of the Church) to be for some purposes a maner of Corporation at the common Law: that is to say, Persons enabled by that name, to take moueable goods, or cattels, and to sue, and bee sued at the Law, concerning such goods, for the vse and profit of their Parish. And therefore a man may well in his life time giue, or by his last will bequeath mony or other moueable things to the Churchwardens, or to the Parishioners of a Parish, eyther for the reparation of the Church, or towards the buying of Bookes, Communion Cups, linnen Cloathes, or other decent ornaments or furniture for the Church.

Which

Which manner of gift is so much fauoured in the law, that it is not altogether needfull in such a gift, for a man to vse expresse words, or writing. For if a man doe buy a Bell, and doe hang it vp in the Steeple, or doe make a Pew, and doe set it vp in the Church, and doe neither make any word or writing thereof, yet is this Bell or Pew by this dedicated or giuen to the Church. Lib. Intrac. fol. 570. 11.H.4. 11. 8.H.7. 12.

They shal haue action.

2 Now although Church-wardens shall haue no Action at the Common Law to recouer a Legacie, or such other thing which they neuer had: yet neuertheleſſe if any such goods, or ornaments of the Church be once in their possession and custodie, then shall they maintaine an Appeale of Robbery against him that stealeth them, or an action of Tresspasse against him that shall wrongfully take them away, though it be the Vicar or Parson himselfe: and the dammages that they shall recouer thereby, shall be to the vse and benefit of the Parish, and not to their own vse. But if those Churchwardens (from whom the goods were so taken) shall happen to die before any action by them brought for the goods, yet shall the next Churchwardens haue an action for the same. 37.H.6. 30.&31 11.H.4. 12. 8.E.4.6.

They may not waste the church goods.

3 And forasmuch as these Churchwardens be Officers put in trust for the behoofe of their Parish, therefore also are they not inabled with any other power, than F.N.B. 91.k. 19.H.6. 66.al. contr.

than for the good and profit of the Parish. So that Churchwardens can neither giue away, nor release at their own pleasure the goods of the Church. For if the Parishioners shall find, that they doe vnprofitably waste or mispend the goods of the Parish, then may they remoue such Churchwardens, by making their choice of new: which new Officers may (by action of account) call to account the former Churchwardens, and shall thereby compell them both to giue reckoning of their doings during their office, and also to make satisfaction to the vse of the Parish for the harm that it hath receiued by their fault. And although the vsage and custome of the Parish bee, that the Churchwardens there shall continue in their office, by the space of one whole yeere, or two yeeres or more (as in deede some Parishes haue such customes) yet vpon such or the like misdemeanour found in them, may the Parishioners at all times proceed to an election of new Churchwardens, and may remoue the old, for that otherwise they haue no meane by our law to call them to their Account: but by such as shall be put in their place. Neuertheless those former Churchwardens shall (vpon the making of such their account) haue allowance of all needfull summes of money, or other things which they haue expended, either vpon the reparation of the body of the Church,

8.E.4.6.

16.H.8. 5.

They may be remoued and brought to account.

Church, or for the prouision of meet and lawfull ornaments, or other furniture of the Church or Parish: because they are compellable (by the Ecclesiasticall Lawes) so to lay forth the goods of the Parish committed to their custodie and charge. They shall haue allowance also (vpon such their account) of the money payd by them for reliefe of Prisoners in the common Goale, by vertue of the Statute 14. El. cap. 5. and of whatsoeuer other thing that they are by law chargeable to doe.

They haue not to do with lands.

4 This (in effect) is the power and charge that the common Law doth giue to Churchwardens: for as touching any estate in lands, or the profits of any lands, Churchwardens haue not to meddle at all: Insomuch, that if the wals, windowes, or doores of the Church be broken, or the trees in the Church-yard be cut downe, or the grasse thereof be eaten vp, then the Parson or Vicar (and not the Churchwardens) shall haue the action for it: because Churchwardens are not by law allowed to be a Corporation for any other thing than for moueable goods only. Now therefore I will shew how their office is increased by a few Statute Lawes, that doe concerne the same. 11. H. 3. 13. 12. H. 7. 77. 13 H. 7. 9

Churchwardens office by the statute.

Repaire to the church.

5 All persons inhabiting within the Kings Maiesties Dominions, shall diligently and faithfully (hauing no lawfull 1. El. c. 2.

or

or reasonable excuse to be absent) endeauour themselues to resort to their parish Church or Chappell accustomed, or (vpon reasonable let thereof) to some vsuall place where common prayer and such seruice of God (as is contained in the booke of common prayer) shall be vsed in such time of let, vpon euery Sunday & other dayes ordained and vsed to bee kept as holy dayes, and then and there to abide orderly and soberly during the time of the common prayer, preachings, or other seruices of God, there to be vsed and ministred vpon paine of punishment by the censures of the Church, & also vpon paine that euery person so offending, shall forfeit for euery such offence xii.d. to be leuied by the Churchwardens of the Parish where such offence shall be done, to the vse of the Poore of the same Parish, of the goods, lands, and tenements of such offender by way of distresse.

6 The Constables and Churchwardens of euery Parish shall yearly vpon the Tuesday or Wednesday in Easter weeke, call together a number of the Parishioners, and shall then elect and chuse two honest persons of the Parish to be Surueyors and Orderers of the workes for one yeare, for amendment of the Highwaies in their Parish, leading to any Market towne: which persons shall take vpon them the execution of their said offices vpon paine euery of them making Highwaies.

making default to forfeit 11.s. And the ſaid Conſtables and Churchwardens ſhall then alſo name and appoint 6 daies for the amendment of the ſaid High-wayes before Midſummer then next following: and ſhall openly in the Church the next Sunday after Eaſter, giue knowledge of the ſame ſixe dayes. And they alſo ought to haue one part of the Eſtreats indented, and ſhall call the Conſtables to account, &c. as it doth appeare before in the thirtieth article of the Conſtables office.

7 See after alſo in the office of the Surueyours of the High-wayes for leuying thoſe forfeitures by the Churchwardens, if the Surueyours ſhall not leuie and imploy the ſame within one yeere after the offence committed.

Refuſe to come to the Church.

8 And ſée in the 4. Article of the duty of the Miniſter, that the Churchwardens may giue notice to ſuch as maintaine or retain in houſe, or otherwiſe, any perſon that obſtinately refuſeth to come to the Church.

Eate fleſh.

9 If any perſon within this Realme ſhall (without lawfull licence) eate any fleſh vpon any daies now vſually obſerued, as Fiſh-dayes, he ſhall forfeit thrée pounds for euery ſuch offence, or elſe ſuffer thrée moneths impriſonment. And euery perſon within whoſe houſe any ſuch offence ſhall be done, and being priuie or knowing thereof, and not effectually diſcloſing 5. El. c. 5.

diſcloſing the ſame to ſome publicke officer, hauing authoritie to puniſh the ſame, ſhall for euery offence forfeit vi.s. viii.d. The third part of all which forfeitures ſhall be to the vſe of the Pariſh wherein the offence ſhall be, and to be leuied by the Churchwardens after any conuiction in that behalfe.

1. El. c. 5. The licence for eating of Fleſh, to be giuen to any perſon for notorious ſickneſſe, by the Biſhop of the Dioceſſe, or by the Parſon, Vicar, or Curate of the Pariſh, ought to be regiſtred (if the ſickneſſe ſhall continue aboue 8. dayes after ſuch Licence granted) in the Church booke, with the knowledge of one of the Churchwardens there: and the partie licenced ſhall giue 4.d. to the Curate for the entry thereof. See before in the duties of Church-Miniſters, Art. 3. Licence to eate fleſh.

43. El. cap. 2. 10 The Churchwardens, and foure, three, or two others of euery Pariſh, appointed by the two Iuſtices of Peace, to be Ouerſéers of the Poore there, (or the more part of them) may by the conſent of two Iuſtices, from time to time take order, for ſetting to worke all perſons married or vnmarried, that haue no meanes or ordinary trade to liue by, and the children of ſuch parents as ſhall be thought vnable to maintaine them. And may alſo ſet vp any trade or myſteries for the ſame purpoſe: and may take as well Inhabitants as Occupiers of lands Poore.

3. Car. 4.

in the Parish to pay weekly, or otherwise, such competent summes of mony (as they shall thinke méete) for a stocke of ware and stuffe for such poore to worke, and for the necessary relieefe of the impotent poore there, and for the putting out of such children to be Apprentices: and they to whom such Apprentices shall bee put, as aforesaid, shall take, receiue, and keep them as Apprentices: and may execute all other things concerning the premisses; as to them shall séeme conuenient. 1. Iac. 25. 21. Ia. 28. 3. Car. 4.

And they shall méete together once in each moneth at the least in the Church vpon some Sunday in the afternoone, to consider of some good course and méet orders to be set downe in the premisses, and within foure dayes after their yéere ended, and other Ouerséers nominated, shall yéeld vp to the two Iustices of Peace a perfect account of their money, stocke, and other things concerning that office, and shall pay the monies that shall be in their hands to the new Churchwardens and Ouerséers, vpon paine to lose xx.s. for euery such monethly absence (without cause, to be allowed by the two Iustices) and for euery negligence in the execution of the said office, or orders made by assent of the two Iustices, as aforesaid.

And the said Churchwardens and Ouerséers (or any of them) by Warrant from

from two such Iustices, may leuie such taxations by distresse and sale of the offenders goods, as also the mony behind vpon any such account, rendring the ouerplus to the party: and they (with the leaue of the Lord of a Common or Waste, in writing) may erect there conuenient habitations, and place Inmates therein at the generall charges of the Parish, &c. when the stocke of the Shire is assessed by the Iustices of Peace in their Quarter Session vpon euery Parish, the same shall be yearly rated within the Parish by agreement of all the Parishioners, or in default thereof by the Churchwardens and Constables of the Parish, or the more part of them, who may leuie the same by distresse, and sale of the goods of such as refuse to pay the portion thereof, and shall render the ouerplus thereof to the owner: & the Churchwardens must ratably pay ouer to the High Constable in whose limit the Parish is situate, ten dayes before the end of euery Quarter Sessions, such mony as for that Parish they ought to pay for the reliefe of the prisoners in the Marshalley and Kings Bench, vpon forfeiture of ten shillings for euery default of such payment.

8.El.c.15 & 14.El. cap.11.

11. In euery Parish, the Churchwardens with fiue other Parishioners, (to be required by the Churchwardens) shall yearly in one of the holy dayes in Easter

Destruction of vermine.

weeke, and at euery other time when it shall be needfull, tare and assesse euery person hauing the possession of any lands or tithes within that parish, to pay such summes of money as they shall thinke meet, according to the quantity of such their lands or tithes. And if any such person doe denie to pay the same, or doe not pay the same (within foureteene dayes next after request thereof made by the Churchwardens, or one of them) then such person shall forfeit for euery time fiue shillings, which (together with the summe assessed) shall be leuied by distresse, of the goods and cattels of such person, to be taken by the Churchwardens, or one of them, the same distresse to be ordered & vsed, as distresses taken for amerciaments in Leets. And as well the said summes as penalties, (if any of them be so leuied) shall be yerly by the Churchwardens, or one of them for the time being, deliuered by bils indented to two honest and substantiall persons of the Parish, which shall be elected and appointed by the Churchwardens, and shall be named, The Distributers of the prouision for the destruction of noysome fowle & vermine. And if the said Churchwardens, fiue persons, or Distributers, or any of them shall refuse, or make default in the execution of any part of this Act, contrary to the forme thereof, then such offender

But note, that 8. El. cap. 15. out of which this Article is collected, is now for want of continuance expired. See 34. H. 8. 10.

fender shall forfeit for euery default v.li. the one moitie to the King, the other to him or them (vsing tillage yeerly within the same Shire) that will sue therefore in any Court of Record.

43. El. cap 3. 12 The mony assessed at the Quarter Sessions by the Iustices of Peace vpon euery Parish for the releefe of disabled Souldiers, may be rated (in default of agreement of the parishioners amongst themselues) by the Churchwardens and Constables of the Parish, or the more part of them: and they may leuie such Rates by distresse and sale of the goods of such as refuse to pay their rates, rendring to the owner the ouerplus comming of such sale: and the Churchwardens must collect and pay ouer to the high Constable, in whose diuision such Parish is, euery such summe ten daies before euery Quarter Sessions of the Peace, vnder the paine of xx.s. for euery default thereof. Souldiers money.

For the rest of the office of the Churchwardens concerning this matter, see afterward in the duty of Distributers. See also in Constables, Art. 26. for the Goale money to bee leuied by Churchwardens.

1. Iac. c. 9 13 The Constables and Churchwardens omitting their duty in leuying the penalties of Inne-keepers, &c. suffering any to remaine tipling in their houses, or selling Ale and Beere, otherwise than Tipling.

by the Statute is appointed: or neglecting by 20. dayes to certifie the default of distresse in offenders against this Act, doe thereby forfett for euery such default 40.s. to the Poore. Whereof see before in Constables, &c. 53.

Deere, Hare, Phesant, Partridge

14 If any shall haue or keepe any Grey-hound for coursing of Deere or Hare, or setting dogge, or dogs, or net, or nets to take Phesants or Partridges contrary to this Statute of 1. Iac. ca. 27. the Churchwardens where the offence shall be committed, or the party apprehended, are in cases therein mentioned, to receiue to the vse of the Poore of the Parish, 40.s. 1. Ia. c. 27

Presente the absence from Church of Popish Recusants.

15 The Churchwardens and Constables of euery Towne, Parish, or Chappell, or some one of them, are yeerly to present at the Quarter Sessions the monthly absence from Church of Popish Recusants, and their children names aboue nine yeeres old, and their age if they can, and the names of their seruants, vpon paine of xx.s. And if such Recusant vpon that presentment be indicted and conuicted, they are to haue a reward of xl.s. of such Recusants goods. See in Constables, &c. 56. 3. Iac. c. 4

Repaire to Church.

16 The Churchwarden may by Warrant from one Iustice of Peace, leuie to the vse of the poore, by distresse and sale of the offenders goods, rendring the ouerplus to such offender, 12. d. for euery 3. Iac. c. 4

default

default in not repairing to Church euerie Sunday, according to the Statute of 1. El. ca. 2. See before Art. 5.

3. Ia. c. 10 17 Where an offender committed to prison, hath not goods sufficient to defray the charge of conducting him thither, the Constable & Churchwardens, and two or three of the Parishioners may make an indifferent taxe for the same. Whereof see before in Constables 24. Conueying of offenders to prison.

21. Iac. 18 18 Where a Clothier makes deceiuable cloth by putting flockes, noyles, chaums, haire, or any other deceiuable matter into it, vpon Warrant and Certificate thereof from any two or moe Iustices of Peace vnto the Churchwardens, and Ouerseers of the Poore of the Parish where the same Clothier dwels, it shall be lawfull for the same Churchwardens and Ouerseers, to leuie the forfeiture of that offence (which by the Statute of 21. Iac. 18. is fiue pounds for euery cloth so made) by distresse and sale of the offenders goods, rendring vnto him the ouerplus; which forfeiture they are to distribute vnto the poore of the same Parish: And in defect of such distresse the said Iustices may commit the offender to the Goale, there to remaine vntill payment of the said forfeiture be made vnto the said Churchwardens and Ouerseers to the vse aforesaid; for which they shall be accountable as they are for other monies, which they are to collect to Clothing.

the vse of the Poore by force of an Act of Parliament made in the 43. yeere of Eliz. cap. 2. See duties of Churchwardens, Art. 10.

Likewise two third parts of the forfeitures for want of length, breadth, or weight of clothes limited by any former Statute now in force, shall be leuied, distributed, and accounted for, as the forfeiture aforesaid. 21. Ia. 18.

19 Againe, for the Churchwardens power in leuying the penalties forfeited for keeping vnlicenced Ale-houses, See duties of Constables, Art. 34.

20 Lastly, for their authority in leuying the penalties forfeited for swearing and cursing, as also for prophanation of the Lords Day, See duties of Constables, Art. 59. & 60.

The office of the Superuisors, Surueyors, or Orderers of the workes for amending of the High-wayes.

VPon the fire dayes appointed for working in the Highwaies in such sort as is before declared in the sixth Article of the Churchwardens office, euery person for euery plowland in tillage or pasture that he 2. & 3. Ph. & M. cap. 8. & 5. El. c. 13 & 18. El. cap. 10.

or

or they shall occupy in the same Parish, and euery other person keeping there a draught or plow, shall finde and send at euery day and place to be appointed for the amending of the wayes in the Parish as is aforesaid, one waine or cart, furnished after the custome of the Country, with oxen, horses, or other cattell, and all other necessaries méete to carry things conuenient for that purpose, and also two able men with the same, vpon paine of euery draught making default ten shillings. And euery other housholder, and also euery cottager and labourer of that parish, able to labour, and being no hired seruant by the yéere, shall by themselues, or one sufficient labourer for euery of them, vpon euery of the said fiue daies, worke and trauell in the amendment of the said Highwaies, vpon paine of euery person making default, to lose for euery day twelue pence. And if the carriages of the Parish, or any of them shall not be thought néedfull by the Surueisors to be occupied vpon any of the said dayes, that then euery such person that should haue sent any such carriage, shall send to the said worke for euery carriage so spared, two able men, there to labour for that day, vpon paine to lose for euery man not so sent to the said worke xii.d. And euery person & carriage aboue said, shall haue & bring with them such shouels, spades, pickes, mattocks,

and other tooles and instruments, as they doe make their owne ditches and fences withall, and such as be necessary for their said worke. And all the said persons and carriages shall doe and keepe their workes, as they shall be appointed by the said Superuisors, or one of them, eight houres of euery of the said dayes, vnlesse they shall be otherwise licenced by the said Superuisors, or one of them.

From henceforth it shall and may bee lawfull to all and singular Superuisor & Superuisors and Orderers of the works for the time being, for the amendment of the said Highwaies, thereunto elected and appointed, according to the Statute made in the second and third yeere of King Philip and Quéene Mary, for the better reparation and amendment of the Highwaies within their seuerall Parishes and Limits, where they shall bee so made Superuisors (if it shall be so to them thought necessary) to take and carry away of the rubbish, or smallest broken stones of any Quarry or Quarries, lying or being within the Parish where they shalbe Superuisors, without licence, controlment, or impeachment of the Owner or Owners, so much as by their discretions shall be deemed and iudged necessary to the amendment of the said wayes. And that for default of any such Quarry or Quarries, it shall and may be lawfull for euery such Superuisor or

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Superuisors, for the vse aforesaid, in the seuerall grounds of any person or persons, being within the Parish & Limits where they shall be Superuisors, and nigh adioyning to the way or waies wherein such reparations shall be thought necessary to be made, and wherein grauell, sand, or sinder is likely to be found, to digge, or cause to be digged for grauell, sand, or sinder, and likewise to gather stones lying vpon any lands or grounds within the Parish, and meet to be vsed to such seruice and purpose; therefore to take and carry away so much as by discretion of the said Superuisors shall be thought necessary to be imployed in the amendment of the said Highwaies. Prouided alwaies, that it shall not be lawfull to any such Superuisor or Superuisors, by vertue of this Act, to cause any rubbish to be digged out of any Quarry or Quarries, but onely shall extend to such rubbish as shall be found there readie digged by the owner or owners of the said Quarry or Quarries, or otherwise by his or their licence and commandement, nor shall not extend to giue authority to any Superuisor or Superuisors, to digge or cause to be digged any grauell, sand, or sinder in the house, garden, orchard, or meadow, of any person or persons, nor that it shall be lawfull by this Act to any such Superuisor or Superisors, to cause any more pits to be digged

for

for grauell in any seuerall or inclosed ground, than one only, and that the same pit or hole so digged for grauell, as is aforesaid, shall not by any way bee in breadth or length aboue ten yards at the most. And that euery such Superuisor as shall cause any such pit to bee made and digged for grauell, sand, or sinder, as is aforesaid, shall within one moneth next after any such digging or pit made, cause the same to be filled and stopped vp with earth, at the cost and charge of the Parishioners, vpon paine to forfeit to the owner or owners of the soile, wherein any such pit shall be made and digged, for euery default fiue markes.

From henceforth euery such Superuisor and Superuisors, as aforesaid, shall by force of this Act, within the parish or limits where he or they shall be Superuisors, haue full power and authoritie to turne any such water course, or spring of water, being in any of the said Highwaies, into any ditch or ditches, of the seuerall ground or soyle of any person or persons whatsoeuer, next adioyning to the said waies, in such manner and forme, as by the discretions of the said Superuisors shall be thought meetest and most conuenient. 5. Eliz. 19

Such Superuisor or Superuisors for the time being, within one moneth next after default or offence made, done, or committed by any person or persons, contrary

contrary to the prouision, purport, and true meaning of the Statute made concerning Highwaies, in the second and third yeere of King Philip & Queen Marie, shall present euery such default or offence to the next Iustice of Peace for the time being, vpon paine to forfeit for euery such default and offence, in such sort not by them presented, xl.s.

18. Eliz. cap. 10. Euery person or persons (except such as shal dwell in the city of London) that shall be assessed to the payment of any subsidy to his Maiesty to v.l. in goods, or xl.s. in lands, or aboue, during all such time as he shall stand so assessed, and not altred, & being none of the parties chargeable for the amendment of highwaies by any former law, but as a cottager, shall find two able men yearly to labour in the highwaies, at such dates & times, as by the seuerall Stat. thereof are limited and appointed. And euery other that hereafter shall occupy a plowland in tillage & pasture, lying or being in seuerall parishes, shalbe chargeable to ỹ making of the waies within the parish where he dwelleth, as far forth, & in such manner & forme, as any person hauing a plowland in any one parish, is, or ought to be chargeable, by reason of the said former Statutes, or either of them. And euery person or persons, occupying & keeping in his or their lands or possessions seuerall or diuers plowlands, as aforesaid, in seue-

rall

tall or diuers Townes, shall be charged to finde in each Towne or Parish (where the plowlands being in his occupying do lye) one cart, waine, tumbrell, dung pot, or court-sleds, carres, or drags, furnished for the amendment and repairing of the Highwaies, within the seuerall Parishes where the said plowlands doe lye, in such manner and forme, as if he or they were a Parishioner dwelling within the Parishes, where the same seuerall plowlands doe lie.

Euery person or persons, that shall not repaire, ditch, or scowre any hayes, sences, ditches, or hedges, adioyning to any highway, or common fairing way, or shall not cut downe or keep low all trees & bushes growing in, or nere adioyning to any the said waies, according to the true intent and meaning of the Act made in the fifth yeere of the late Q. Eliz. reigne, for euery offence committed therein, contrary to the true intent thereof, shall forfeit and lose for euery default x.s. And all and euery person and persons, that shall occupy any lands adioyning to the ground, so adioyning to any such highway, or common fairing way, where any ditching or scowring should or ought to be, as aforesaid, shall from time to time, as need shall require, ditch & scowre in his or their ground so adioyning, whereby the water conueyed from the said highway, or common fairing way,

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ouer the ground next adioyning, may haue passage ouer the said ground, so next adioyning to that ground, vpon paine of forfeiture for euery time so offending, for euery Rodd not so ditched and scowred 12.d.

No person or persons, hauing any ground by lease, or otherwise, adioyning to any highway, or common fairing way, leading to any Market Towne, shall cast or scowre any ditch, and throw, or lay the soile thereof into the highway, and suffer it to lye there by the space of fiue moneths, to the annoyance of the said highway, or common fairing way, vpon paine of forfeiture for euery loade of soyle, so cast into the highway or common fairing way, in ditching or scowring, 12.d. And where any heretofore haue been so cast into the highway, or common fairing way, that there is a banke betweene the said way & the ditch, it shall be lawfull for the Surueyors and workmen, by the Lawes and Statutes of this Realme, appointed for the amendment of the said waies, to make sluces or other deuices by their discretions, to conuey the water out of the said way into the ditch: any law, right, interest, custome, or vsage to the contrary notwithstanding.

Euery penalty, summe, or summes of money forfeited for any cause within the Statute, shalbe leuied in euery parish in the

the Surueyors of the waies within that parish for the time being, by distresse, and sale of distresse, in manner and forme as fines or amerciaments in Leetes haue beene vsed, and the money so leuied to be imployed vpon the highway or common fairing way, where the offence was committed. And if the Surueyors shall not, or will not leuie & imploy the same within one yeere after the offence so committed, that then the said summe or summes, forfeiture or forfeitures, shall be leuied in forme aforesaid, by the Constables or Churchwardens of the towne or parish where the worke ought to bee done in the highway (as is aforesaid) and that he or they so leuying any of the said penalties or forfeitures, shall make and yeeld such account as is appointed in the before recited Statutes, or either of them.

Wealdish waies. In the Weald of Kent, Sussex, and Surrey, the Surueyors within the Parishes where the Highwaies shall be most annoyed, shall (in default of appointment by the Iustices of Peace) assigne and appoint in what places of the Highwaies there, the sinder, grauell, stone, or chalke, (to bee carried by the occupiers of iron workes) shall bee layed and bestowed, vnder the pain of xl.s. of euery such Surueyor for euery such default, and they shall make demand of the forfeitures of money to be payd in default of such carri-

39. Eliz. cap 19.

ages:

ages: and shall present every such default of carriage or payment at the next Quarter Session of ỳ County, upon his paine of xl.s for every default by them.

The office of the Distributers of the prouision for the destruction of noysome Fowle and Vermine.

THese Distributers being so chosen, and hauing mony (as is before shewed in the 11. Article of the Churchwardens office) shall giue and pay of the same money so to them deliuered, to euery person that shall bring to them any heads of old Crowes, Choughes, Pyes, or Rookes taken within the seuerall Parishes, for the heads of euery three of them a peny: and for the heads of euery fiue young Crowes, Choughes, Pyes, or Rookes taken, as is aforesaid, a peny; and for euery fiue egges of any of them vnbroken, a peny: & likewise for euery 12. Stares heads a peny. All which saide heads and egges, the said Distributers in some conuenient place shall keepe, and shall euery moneth at the least bring forth the same before the said Churchwardens & Tarors, or three of them, and then & there to them shall make a true account in writing, what mony they haue

laid

8 Eliz. ca. 15. & 14. El. ca. 11. & 39. Eliz. cap. 18. But note, that 8. Eliz. c. 15. is now expired. Sec 24. H. 8. 10.

laid forth & payd for such heads & egges, and for the heads of such other rauenous birds & vermine, as are hereafter in this Act mentioned: that is to say, for euery head of Merton, Hawkes, Fursekite, Woldkit, Buzzard, Scag, Cormorant, or Ringtaile, 2.d. and for euery two egges of them, a peny: for euery Iron or Dspreyes head, 4.d. for the head of euery Woodwall, Pie, Jay, Rauen, or Kite, a peny: for the head of euery bird, which is called the Kings fisher, a peny: for ỹ head of euery Bulfinch, or other bird, that deuoureth the blouth of fruit, one peny: for the heads of euery Fore or Grey, 12.d. and for the head of euery Fitchew, Polcat, Weasell, Stote, Faire, Badger, or Wildcat, a peny: for the heads of euery Otter or Hedgehog, 2.d. for the heads of euery 3. Rats, or 12. Mice, a peny: for the heads of euery Woldwarpe, or Want, an halfe peny: for the heads of euery which birds & vermine last mentioned, the last Distributers shall likewise pay & giue to the bringer of them, for euery head killed and taken within their seuerall parish, as before is limitted, and shall kéep the same to be shewed forth vpon their account, in manner and forme as is aforesaid. All which said heads and egges shall be forthwith after such account made in the presence of the said Churchwardens and Tarors, or of three of them, burned, consumed, or cut in sunder.

And

And if vpon any account to be made in the end and determination of the office of any such distributers, it shall appeare that any summe of money is remaining in the hands of the said distributers, or any of them, then the same shalbe by bill indented, as is aforesaid, deliuered ouer to such persons as be, or shalbe elected to the same office, for the yeere next following, by them to be distributed, as is aforesaid. This shall not in any wise extend, to giue any liberty or authority to any person or persons, to vse or exercise any means or engine for the destruction of crowes, or rooks, choughes, or other the vermine aforesaid, in any place or places, to the disturbance, let, or destruction of the building or breeding of any kind of hawkes, hernes, egrits, paupers, swans, or shouelers: to the hurt and destruction of any doues, doue-houses, deere, or warren of conies, nor extend to giue or appoint any summe or summes of mony to be giuen, paid, or distributed to any person or persons, for the head or heads of any buzzard, ring-taile, herne, polcat, fitchew, or stote, taken in any parke, warren, or ground, imployed to the maintenance of any game of conies, or to any stares taken in doue-houses, nor to the killing or bringing the head of any kite or rauen, killed in any city or towne corporate, or within two miles of the same.

The Conclvsion.

And here for Conclusion it will not be amisse to annexe vnto this Treatise the effect of two late Statutes, made for ease in pleading against troublesome and contentious suites, prosecuted against Constables, Churchwardens, &c. for the lawfull execution of their office: the first of which Statutes, made in the seuenth yeere of the reigne of our late Soueraigne Lord King Iames, followeth in these words.

For ease in pleading against many 7. Iac. c. 5
causeleſſe and contentious ſuites, which haue béen, and daily are commenced and prosecuted against Iustices of Peace, Maiors, or Bailiffes of Cities, & Townes Corporate, Headboroughes, Portréeues, Constables, Tythingmen, Collectors of Subsidies & Fifteenes, who for due execution of their office haue béen troubled & molested, and still are like to be troubled and molested by euill disposed and contentious persons, to their great charge and discouragement in doing of their offices: Be it therefore enacted, &c. That if any Action, Bill, Plaint, or Suite vpon the Case, Trespasse, Battery, or false

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Imprisonment, shall be brought after forty dates next after the end of this Session of Parliament, in any of his Maiesties Courts at Westminster, or elsewhere, against any Justice of Peace, Maior or Bailiffe of City, or Towne corporate, Headborow, Portreeue, Constable, Tythingman, Collector of Subsidie or Fifteenes, for or concerning any matter, cause, or thing, by them or any of them done, by vertue or reason of their or any of their office or offices, That it shall be lawfull to and for every such Justice of Peace, Maior, Bailiffe, Constable, or other Officer or Officers before named, and all others which in their aide or assistance, or by their commandement shall do any thing touching or concerning his or their office or offices, to pleade the Generall Issue, that he or they are not guiltie, and to giue such speciall matter in euidence to the Iury which shall trie the same, which speciall matter being pleaded, had been a good and sufficient matter in Law, to haue discharged the said Defendant or Defendants of the Trespasse, or other matter laid to his or their charge: And that if the verdict shall passe with the said Defendant or Defendants in any such Action, or the Plaintiffe or Plaintiffes therein become Nonsuite, or suffer any discontinuance thereof, That in every such case the Justices or Justice, or such other Judge before whom the said

matter shall be tried, shall by force and vertue of this Act allow vnto the Defendant or Defendants his or their double costs, which he or they shall haue sustained by reason of their wrongfull veration in defence of the said Action or Suite: for which the said Defendant or Defendants shall haue like remedy, as in other cases where costs by the Lawes of this Realme are giuen to the Defendants. And this Act to continue for 7. yeeres, and from thence to the end of the next Parliament after the said 7. yeeres.

The other of those two Statutes was made in the 21. yeere of our said late Soueraigne Lord King Iames, the tenour whereof is as followeth:

Be it enacted, &c. That the said Act (viz. of 7. Iac. c. 5.) shal from & after the end of this present Session of Parliament be perpetuall, & haue continuance for euer. And that all Churchwardens, & all persons called Sworne-men, executing the office of Churchwardens, and all Ouerseers of the Poore, and all others, which in their aide and assistance, or by their commandement, shall do any thing touching or concerning his or their office or offices, shall hereafter be enabled to receiue, and haue such benefit and help by vertue of the said Act, to all intents, constructions, and purposes, as if they had beene specially named therein. 21. Iac. cap. 12.

And whereas, notwithstanding the said Statute,

Statute, the Plaintiffe is at liberty to lay his action, which he shall bring against any Iustice of Peace, or other Officer in any forraigne Country, at his choice, which hath proued very inconuenient vnto sundry of the officers, and persons aforesaid, that haue beene impleaded by some contentions, and troublesome persons in countries far remote from their places of habitations.

Be it therefore enacted, &c. That if any Action, Bill, Plaint, or Suite vpon the Case, Trespasse, Battery, or false Imprisonment, shalbe brought after the end of this present Session of Parliament, against any Iustice of Peace, Maior, or Bailiffe of Citie or Towne Corporate, Headborow, Portreeue, Constable, Tythingman, Collector of Subsidy or Fifteenes, Churchwardens, and persons called Sworne-men, executing the office of Churchwarden, or Ouerseers of the Poore, and their deputies, or any of them, or any other, which in their aide or assistance, or by their commandement, shall doe any thing touching or concerning his or their office or offices, for or concerning any matter, cause, or thing by them, or any of them done, by vertue or reason of their, or any of their office or offices, That the said Action, Bill, Plaint, or Suite shall be laid within the Countie, where the

trespasse

treſpaſſe or fact ſhall be done or committed, and not elſewhere: And that it ſhall be lawfull to and for all, and euery perſon and perſons aforeſaid, to pleade thereunto the Generall Iſſue, that he or they are not guiltie, and to giue ſuch ſpeciall matter in euidence to the Iury, which ſhall trie the ſame, as in, or by the ſaid former Act is limited or declared: And that if vpon the tryall of any ſuch Action, Bill, Plaint, or Suite, the Plaintiffe or Plaintiffes therein, ſhall not proue to the Iury, which ſhall trie the ſame, That the Treſpaſſe, Battery, Impriſonment, or other fact, or cauſe of his, her, or their ſuch Action, Bill, Plaint, or Suite, was or were had, made, committed, or done within the Counties wherein ſuch Action, Bill, Plaint, or Suite ſhall be laid, That then in euery ſuch caſe the Iury which ſhall trie the ſame, ſhall finde the Defendant and Defendants in euery ſuch Action, Bill, Plaint, or Suite, not guilty, without hauing any regard or reſpect to any euidence giuen by the Plaintiffe or Plaintiffes therein, touching the Treſpaſſe, Battery, Imprizonment, or other cauſe, for which the ſame Action, Bill, Plaint, or Suite is or ſhall be brought: And if the verdict ſhall paſſe with the Defendant or Defendants in any ſuch Action, Bill, Plaint,

Plaint, or Suite, or the Plaintiffe or Plaintiffes therein become Non-suite, or suffer any discontinuance thereof, That in every such case, the Defendant or Defendants shall haue such double costs, and all other aduantages and remedies, as in, and by the said former Act is limited, directed, and prouided.

FINIS.